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TITLE S. 22; An Act for the General Revision of the Copyright Law, Title 17 of the United States Code, and for Other Purposes. In the House of Representatives, Ninety-Fourth Congress, Second Session. Report No. 94-1476. Union Calendar No. 759.

INSTITUTION Congress of the U.S., Washington, D.C. House Committee on the Judiciary.

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ABSTRACT

Senate Bill 22, the proposed new copyright law, specifies in chapter one the subject matter and scope of copyright. It also defines the terms used in the bill and formulates limitations on the exclusive rights of copyright holders. These limitations include the "fair use" of copyrighted work by reproduction for noncommercial educational use, limited reproduction by libraries and archives, certain performances and displays, specified secondary and primary transmissions to controlled groups, and certain "ephemeral recordings." The chapter also delimits the scope of exclusive rights for the various media. Licensing requirements for secondary transmission by cable systems and for manufacturing and distributing phonorecords are explained. The ownership, transfer and duration of copyright plus the requirements of notice, deposit and registration are detailed in chapters two through four of the bill. Chapter five concerns copyright infringement and remedies. Chapter six specifies the conditions of manufacture, importation and public distribution of copies. Chapters seven and eight establish and describe the duties of the Copyright Office and the Copyright Royalty Commission. (KB)

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Union Calendar No. 759

94TH CONGRESS
2D SESSION

S. 22

[Report No. 94-1476]

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1976

Referred to the Committee on the Judiciary

SEPTEMBER 3, 1976

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed[Strike out all after the enacting clause and insert the part printed in *italics*]

AN ACT

For the general revision of the Copyright Law, title 17 of the United States
Code, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representatives of the*
- 2 *United States of America in Congress assembled.*

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[Pages 1 - 82 crossed out & deleted by Congress]

- 31 **TITLE I—GENERAL REVISION OF COPYRIGHT LAW**
- 32 *Sec. 101. Title 17 of the United States Code, entitled "Copyrights",*
- 33 *is hereby amended in its entirety to read as follows:*

34 **TITLE 17—COPYRIGHTS**

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Chapter 1.—SUBJECT MATTER AND SCOPE OF COPYRIGHT

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§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

1 A "compilation" is a work formed by the collection and assem-
 2 bling of pre-existing materials or of data that are selected, coordi-
 3 nated, or arranged in such a way that the resulting work as a
 4 whole constitutes an original work of authorship. The term "com-
 5 pilation" includes collective works.

6 "Copies" are material objects, other than phonorecords, in which
 7 a work is fixed by any method now known or later developed, and
 8 from which the work can be perceived, reproduced, or otherwise
 9 communicated, either directly or with the aid of a machine or de-
 10 vice. The term "copies" includes the material object, other than a
 11 phonorecord, in which the work is first fixed.

12 "Copyright owner", with respect to any one of the exclusive
 13 rights comprised in a copyright, refers to the owner of that par-
 14 ticular right.

15 A work is "created" when it is fixed in a copy or phonorecord
 16 for the first time; where a work is prepared over a period of time,
 17 the portion of it that has been fixed at any particular time consti-
 18 tutes the work as of that time, and where the work has been pre-
 19 pared in different versions, each version constitutes a separate
 20 work.

21 A "derivative work" is a work based upon one or more pre-
 22 existing works, such as a translation, musical arrangement, drama-
 23 tization, fictionalization, motion picture version, sound record-
 24 ing, art reproduction, abridgment, condensation, or any other
 25 form in which a work may be recast, transformed, or adapted. A
 26 work consisting of editorial revisions, annotations, elaborations,
 27 or other modifications which, as a whole, represent an original
 28 work of authorship, is a "derivative work".

29 A "device", "machine", or "process" is one now known or later
 30 developed.

31 To "display" a work means to show a copy of it, either directly
 32 or by means of a film, slide, television image, or any other device or
 33 process or, in the case of a motion picture or other audiovisual
 34 work, to show individual images nonsequentially.

35 A work is "fixed" in a tangible medium of expression when its
 36 embodiment in a copy or phonorecord, by or under the authority
 37 of the author, is sufficiently permanent or stable to permit it to be
 38 perceived, reproduced, or otherwise communicated for a period of
 39 more than transitory duration. A work consisting of sounds,
 40 images, or both, that are being transmitted, is "fixed" for purposes

of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

1 A "pseudoñymous work" is a work on the copies or phono-
2 records of which the author is identified under a fictitious name.

3 "Publication" is the distribution of copies or phonorecords of
4 a work to the public by sale or other transfer of ownership, or by
5 rental, lease, or lending. The offering to distribute copies or phono-
6 records to a group of persons for purposes of further distribution,
7 public performance, or public display, constitutes publication. A
8 public performance or display of a work does not of itself con-
9 stitute publication.

10 To perform or display a work "publicly" means—

11 (1) to perform or display it at a place open to the public or
12 at any place where a substantial number of persons outside
13 of a normal circle of a family and its social acquaintances is
14 gathered; or

15 (2) to transmit or otherwise communicate a performance
16 or display of the work to a place specified by clause (1) or to
17 the public, by means of any device or process, whether the
18 members of the public capable of receiving the performance
19 or display receive it in the same place or in separate places
20 and at the same time or at different times.

21 "Sound recordings" are works that result from the fixation of
22 a series of musical, spoken, or other sounds, but not including the
23 sounds accompanying a motion picture or other audiovisual work,
24 regardless of the nature of the material objects, such as disks,
25 tapes, or other phonorecords, in which they are embodied.

26 "State" includes the District of Columbia and the Common-
27 wealth of Puerto Rico, and any territories to which this title is
28 made applicable by an Act of Congress.

29 A "transfer of copyright ownership" is an assignment, mort-
30 gage, exclusive license, or any other conveyance, alienation, or
31 hypothecation of a copyright or of any of the exclusive rights
32 comprised in a copyright, whether or not it is limited in time or
33 place of effect, but not including a nonexclusive license.

34 A "transmission program" is a body of material that, as an
35 aggregate, has been produced for the sole purpose of transmission
36 to the public in sequence and as a unit.

37 To "transmit" a performance or display is to communicate it
38 by any device or process whereby images or sounds are received
39 beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is—

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication with the purpose of use in systematic instructional activities.

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be per-

received, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

- (1) literary works;
- (2) musical works, including any accompanying words;
- (3) dramatic works, including any accompanying music;
- (4) pantomimes and choreographic works;
- (5) pictorial, graphic, and sculptural works;
- (6) motion pictures and other audiovisual works; and
- (7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing pre-existing material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the pre-existing material employed in the work, and does not imply any exclusive right in the pre-existing material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the pre-existing material.

§ 104. Subject matter of copyright: National origin

(a) **UNPUBLISHED WORKS.**—The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) **PUBLISHED WORKS.**—The works specified by sections 102 and 103, when published, are subject to protection under this title if—

- (1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise: Provided, however, That the Secretary of Commerce may secure copyright for a limited term not to exceed five years, on behalf of the United States as author or copyright owner in any National Technical Information Service publication, which is disseminated pursuant to the provisions of chapter 23 of title 15.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted

to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if—

(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

1 (3) the reproduction or distribution of the work includes a no-
2 tice of copyright.

3 (b) The rights of reproduction and distribution under this sec-
4 tion apply to a copy or phonorecord of an unpublished work dupli-
5 cated in facsimile form solely for purposes of preservation and secu-
6 rity or for deposit for research use in another library or archives of the
7 type described by clause (2) of subsection (a), if the copy or phono-
8 record reproduced is currently in the collections of the library or
9 archives.

10 (c) The right of reproduction under this section applies to a copy
11 or phonorecord of published work duplicated in facsimile form
12 solely for the purpose of replacement of a copy or phonorecord that
13 is damaged, deteriorating, lost, or stolen, if the library or archives has,
14 after a reasonable effort, determined that an unused replacement can-
15 not be obtained at a fair price.

16 (d) The rights of reproduction and distribution under this section
17 apply to a copy, made from the collection of a library or archives
18 where the user makes his or her request or from that of another library
19 or archives, of no more than one article or other contribution to a copy-
20 righted collection or periodical issue, or to a copy or phonorecord of a
21 small part of any other copyrighted work, if—

22 (1) the copy or phonorecord becomes the property of the user,
23 and the library or archives has had no notice that the copy or
24 phonorecord would be used for any purpose other than private
25 study, scholarship, or research; and

26 (2) the library or archives displays prominently, at the place
27 where orders are accepted, and includes on its order form, a
28 warning of copyright in accordance with requirements that the
29 Register of Copyrights shall prescribe by regulation.

30 (e) The rights of reproduction and distribution under this section
31 apply to the entire work, or to a substantial part of it, made from the
32 collection of a library or archives where the user makes his or her
33 request or from that of another library or archives, if the library or
34 archives has first determined, on the basis of a reasonable investiga-
35 tion, that a copy or phonorecord of the copyrighted work cannot be
36 obtained at a fair price, if—

37 (1) the copy or phonorecord becomes the property of the user,
38 and the library or archives has had no notice that the copy or

1 *phonorecord would be used for any purpose other than private*
 2 *study, scholarship, or research; and*

3 *(2) the library or archives displays prominently, at the place*
 4 *where orders are accepted, and includes on its order form, a*
 5 *warning of copyright in accordance with requirements that the*
 6 *Register of Copyrights shall prescribe by regulation.*

7 *(f) Nothing in this section—*

8 *(1) shall be construed to impose liability for copyright in-*
 9 *fringement upon a library or archives or its employees for the*
 10 *unsupervised use of reproducing equipment located on its prem-*
 11 *ises: Provided, That such equipment displays a notice that the*
 12 *making of a copy may be subject to the copyright law;*

13 *(2) excuses a person who uses such reproducing equipment or*
 14 *who requests a copy or phonorecord under subsection (d) from*
 15 *liability for copyright infringement for any such act, or for any*
 16 *later use of such copy or phonorecord, if it exceeds fair use as pro-*
 17 *vided by section 107;*

18 *(3) shall be construed to limit the reproduction and distribution*
 19 *by lending of a limited number of copies and excerpts by a library*
 20 *or archives of an audiovisual news program, subject to clauses*
 21 *(1), (2), and (3) of subsection (a); or*

22 *(4) in any way affects the right of fair use as provided by*
 23 *section 107, or any contractual obligations assumed at any time*
 24 *by the library or archives when it obtained a copy or phonorecord*
 25 *of a work in its collections.*

26 *(g) The rights of reproduction and distribution under this section*
 27 *extend to the isolated and unrelated reproduction or distribution of a*
 28 *single copy or phonorecord of the same material on separate occasions,*
 29 *but do not extend to cases where the library or archives, or its em-*
 30 *ployee—*

31 *(1) is aware or has substantial reason to believe that it is en-*
 32 *gaging in the related or concerted reproduction or distribution*
 33 *of multiple copies or phonorecords of the same material, whether*
 34 *made on one occasion or over a period of time, and whether in-*
 35 *tended for aggregate use by one or more individuals or for sepa-*
 36 *rate use by the individual members of a group; or*

37 *(2) engages in the systematic reproduction or distribution of*
 38 *single or multiple copies or phonorecords of material described*
 39 *in subsection (d): Provided, That nothing in this clause prevents*

1 a library or archives from participating in interlibrary arrange-
 2 ments that do not have, as their purpose or effect, that the library
 3 or archives receiving such copies or phonorecords for distribution
 4 does so in such aggregate quantities as to substitute for a sub-
 5 scription to or purchase of such work.

6 (h) The rights of reproduction and distribution under this section
 7 do not apply to a musical work, a pictorial, graphic or sculptural work,
 8 or a motion picture or other audiovisual work other than an audio-
 9 visual work dealing with news, except that no such limitation shall
 10 apply with respect to rights granted by subsections (b) and (c), or
 11 with respect to pictorial or graphic works published as illustrations,
 12 diagrams, or similar adjuncts to works of which copies are repro-
 13 duced or distributed in accordance with subsections (d) and (e).

14 (i) Five years from the effective date of this Act, and at five-year
 15 intervals thereafter, the Register of Copyrights, after consulting with
 16 representatives of authors, book and periodical publishers, and other
 17 owners of copyrighted materials, and with representatives of library
 18 users and librarians, shall submit to the Congress a report setting forth
 19 the extent to which this section has achieved the intended statutory
 20 balancing of the rights of creators, and the needs of users. The report
 21 should also describe any problems that may have arisen, and present
 22 legislative or other recommendations, if warranted.

23 **§ 109. Limitations on exclusive rights: Effect of transfer of par-**
 24 **ticular copy or phonorecord**

25 (a) Notwithstanding the provisions of section 106(3), the owner of
 26 a particular copy or phonorecord lawfully made under this title, or
 27 any person authorized by such owner, is entitled, without the authority
 28 of the copyright owner, to sell or otherwise dispose of the possession
 29 of that copy or phonorecord.

30 (b) Notwithstanding the provisions of section 106(5), the owner of
 31 a particular copy lawfully made under this title, or any person author-
 32 ized by such owner, is entitled, without the authority of the copyright
 33 owner, to display that copy publicly, either directly or by the projec-
 34 tion of no more than one image at a time, to viewers present at the
 35 place where the copy is located.

36 (c) The privileges prescribed by subsections (a) and (b) do not,
 37 unless authorized by the copyright owner, extend to any person who
 38 has acquired possession of the copy or phonorecord from the copyright
 39 owner, by rental, lease, loan, or otherwise, without acquiring ownership
 40 of it.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) *performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;*

(2) *performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if—*

(A) *the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and*

(B) *the performance or display is directly related and of material assistance to the teaching content of the transmission; and*

(C) *the transmission is made primarily for—*

(i) *reception in classrooms or similar places normally devoted to instruction, or*

(ii) *reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or*

(iii) *reception by officers or employees of governmental bodies as a part of their official duties or employment;*

(3) *performance of a nondramatic literary or musical work or of a dramatic-musical work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;*

(4) *performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—*

(A) *there is no direct or indirect admission charge; or*

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following conditions:

(i) the notice shall be in writing and signed by the copyright owner or such owner's duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance and shall state the reasons for the objection; and

(iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—

(A) a direct charge is made to see or hear the transmission; or

(B) the performance or display is further transmitted beyond the place where the receiving apparatus is located;

(6) performance of a nondramatic musical work by a governmental body or a nonprofit agricultural or horticultural organization, in the course of an annual agricultural or horticultural fair or exhibition conducted by such body or organization; the exemption provided by this clause shall extend to any liability for copyright infringement that would otherwise be imposed on such body or organization, under doctrines of vicarious liability or related infringement, for a performance by a concessionnaire, business establishment, or other person at such fair or exhibition, but shall not excuse any such person from liability for the performance;

(7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the

work, and the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring;

(8) performance of a nondramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, or deaf or other handicapped persons who are unable to hear the aural signals accompanying a transmission of visual signals, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of (i) a governmental body; or (ii) a noncommercial educational broadcast station (as defined in section 397 of title 47); or (iii) a radio subcarrier authorization (as defined in 47 CFR 73.293-73.295 and 73.593-73.595); or (iv) a cable system (as defined in section 111(f)).

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) **CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.**—The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if—

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist solely of providing wires, cables, or other communications channels for the use of others: Provided, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and

do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) *SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.*—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: Provided, however, That such secondary transmission is not actionable as an act of infringement if—

(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission;

(2) the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission; and

(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.

(c) *SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.*—

(1) Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed

1 by the Federal Communications Commission or by an appropriate
 2 governmental authority of Canada or Mexico and embodying a per-
 3 formance or display of a work is actionable as an act of infringement
 4 under section 501, and is fully subject to the remedies provided by
 5 sections 502 through 506, in the following cases:

6 (A) where the carriage of the signals comprising the secondary
 7 transmission is not permissible under the rules, regulations, or au-
 8 thorizations of the Federal Communications Commission; or

9 (B) where the cable system has not recorded the notice specified
 10 by subsection (d) and deposited the statement of account and
 11 royalty fee required by subsection (d).

12 (3) Notwithstanding the provisions of clause (1) of this subsection
 13 and subject to the provisions of subsection (e) of this section, the sec-
 14 ondary transmission to the public by a cable system of a primary
 15 transmission made by a broadcast station licensed by the Federal
 16 Communications Commission or by an appropriate governmental
 17 authority of Canada or Mexico and embodying a performance or dis-
 18 play of a work is actionable as an act of infringement under section
 19 501, and is fully subject to the remedies provided by sections 502
 20 through 506, if the content of the particular program in which the
 21 performance or display is embodied, or any commercial advertising
 22 or station announcements transmitted by the primary transmitter
 23 during, or immediately before or after, the transmission of such pro-
 24 gram, is in any way willfully altered by the cable system through
 25 changes, deletions, or additions, except for the alteration, deletion,
 26 or substitution of commercial advertisements performed by those
 27 engaged in television commercial advertising market research: Pro-
 28 vided, That the research company has obtained the prior consent of
 29 the advertiser who has purchased the original commercial advertise-
 30 ment, the television station broadcasting that commercial advertise-
 31 ment, and the cable system performing the secondary transmission:
 32 And provided further, That such commercial alteration, deletion, or
 33 substitution is not performed for the purpose of deriving income from
 34 the sale of that commercial time.

35 (4) Notwithstanding the provisions of clause (1) of this subsection,
 36 the secondary transmission to the public by a cable system of a primary
 37 transmission made by a broadcast station licensed by an appropriate
 38 governmental authority of Canada or Mexico and embodying a per-
 39 formance or display of a work is actionable as an act of infringement

1 under section 501, and is fully subject to the remedies provided by
 2 sections 502 through 506, if (A) with respect to Canadian signals,
 3 the community of the cable system is located more than one hundred
 4 and fifty miles from the United States-Canadian border and is also
 5 located south of the forty-second parallel of latitude, or (B) with
 6 respect to Mexican signals, the secondary transmission is made by
 7 a cable system which received the primary transmission by means
 8 other than direct interception of a free space radio wave emitted by
 9 such broadcast television station, unless prior to April 15, 1976, such
 10 cable system was actually carrying, or was specifically authorized to
 11 carry, the signal of such foreign station on the system pursuant to the
 12 rules, regulations, or authorizations of the Federal Communications
 13 Commission.

14 (d) *COMPULSORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE*
 15 *SYSTEMS.—*

16 (1) For any secondary transmission to be subject to compulsory
 17 licensing under subsection (c), the cable system shall, at least one
 18 month before the date of the commencement of operations of the cable
 19 system or within one hundred and eighty days after the enactment of
 20 this Act, whichever is later, and thereafter within thirty days after
 21 each occasion on which the ownership or control or the signal carriage
 22 complement of the cable system changes, record in the Copyright
 23 Office a notice including a statement of the identity and address of
 24 the person who owns or operates the secondary transmission service
 25 or has power to exercise primary control over it, together with the
 26 name and location of the primary transmitter or primary transmitters
 27 whose signals are regularly carried by the cable system, and there-
 28 after, from time to time, such further information as the Register of
 29 Copyrights, after consultation with the Copyright Royalty Commis-
 30 sion, shall prescribe by regulation to carry out the purpose of this
 31 clause.

32 (2) A cable system whose secondary transmissions have been sub-
 33 ject to compulsory licensing under subsection (c) shall, on a semiannual
 34 basis, deposit with the Register of Copyrights, in accordance with
 35 requirements that the Register shall, after consultation with the Copy-
 36 right Royalty Commission, prescribe by regulation—

37 (A) a statement of account, covering the six months next pre-
 38 ceding, specifying the number of channels on which the cable
 39 system made secondary transmissions to its subscribers, the names
 40 and locations of all primary transmitters whose transmissions

were further transmitted by the cable system, the total number of subscribers, and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters; and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Commission, from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programming that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage; and

(B) except in the case of a cable system whose royalty is specified in subclause (C) or (D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) 0.675 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (ii) through (iv);

(ii) 0.675 of 1 per centum of such gross receipts for the first distant signal equivalent;

(iii) 0.425 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents;

(iv) 0.2 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraphs (ii) through (iv), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be

1 limited to those gross receipts derived from subscribers located
2 without the local service area of such primary transmitter;

3 (C) if the actual gross receipts paid by subscribers to a cable
4 system for the period covered by the statement for the basic serv-
5 ice of providing secondary transmissions of primary broadcast
6 transmitters total less than \$80,000, gross receipts of the cable
7 system for the purpose of this subclause shall be computed by
8 subtracting from such actual gross receipts the amount by which
9 \$80,000 exceeds such actual gross receipts, except that in no case
10 shall a cable system's gross receipts be reduced to less than \$3,000.
11 The royalty fee payable under this subclause shall be 0.5 of 1 per
12 centum, regardless of the number of distant signal equivalents,
13 if any; and

14 (D) if the actual gross receipts paid by subscribers to a cable
15 system for the period covered by the statement, for the basic serv-
16 ice of providing secondary transmissions of primary broadcast
17 transmitters, are more than \$80,000 but less than \$160,000, the
18 royalty fee payable under this subclause shall be (i) 0.5 of 1 per
19 centum of any gross receipts in excess of \$80,000; and (ii) 1 per
20 centum of any gross receipts in excess of \$80,000 but less than
21 \$160,000, regardless of the number of distant signal equivalents,
22 if any.

23 (3) The Register of Copyrights shall receive all fees deposited
24 under this section and, after deducting the reasonable costs incurred
25 by the Copyright Office under this section, shall deposit the balance
26 in the Treasury of the United States, in such manner as the Secretary
27 of the Treasury directs, for later distribution by the Copyright Roy-
28 alty Commission as provided by this title. The Register shall submit to
29 the Copyright Royalty Commission, on a semiannual basis, a compila-
30 tion of all statements of account covering the relevant six-month pe-
31 riod provided by clause (2) of this subsection.

32 (4) The royalty fees thus deposited shall, in accordance with the
33 procedures provided by clause (5), be distributed to those among the
34 following copyright owners who claim that their works were the sub-
35 ject of secondary transmissions by cable systems during the relevant
36 semiannual period:

37 (A) any such owner whose work was included in a secondary
38 transmission made by a cable system of a nonnetwork television
39 program in whole or in part beyond the local service area of the
40 primary transmitter; and

1 (B) any such owner whose work was included in a secondary
2 transmission identified in a special statement of account de-
3 posited under clause (2) (A); and

4 (C) any such owner whose work was included in nonnetwork
5 programing consisting exclusively of aural signals carried by a
6 cable system in whole or in part beyond the local service area of
7 the primary transmitter of such programs.

8 (5) The royalty fees thus deposited shall be distributed in accord-
9 ance with the following procedures:

10 (A) During the month of July in each year, every person claim-
11 ing to be entitled to compulsory license fees for secondary trans-
12 missions shall file a claim with the Copyright Royalty Commis-
13 sion, in accordance with requirements that the Commission shall
14 prescribe by regulation. Notwithstanding any provisions of the
15 antitrust laws (within the meaning of section 12 of title 15), for
16 purposes of this clause any claimants may agree among them-
17 selves as to the proportionate division of compulsory licensing
18 fees among them, may lump their claims together and file them
19 jointly or as a single claim, or may designate a common agent to
20 receive payment on their behalf.

21 (B) After the first day of August of each year, the Copyright
22 Royalty Commission shall determine whether there exists a con-
23 troversy concerning the distribution of royalty fees. If the Com-
24 mission determines that no such controversy exists, it shall, after
25 deducting its reasonable administrative costs under this section,
26 distribute such fees to the copyright owners entitled, or to their
27 designated agents. If the Commission finds the existence of a
28 controversy, it shall, pursuant to chapter 8 of this title, conduct
29 a proceeding to determine the distribution of royalty fees.

30 (C) During the pendency of any proceeding under this sub-
31 section, the Copyright Royalty Commission shall withhold from
32 distribution an amount sufficient to satisfy all claims with respect
33 to which a controversy exists, but shall have discretion to proceed
34 to distribute any amounts that are not in controversy.

35 (e) NONSIMULTANEOUS SECONDARY TRANSMISSIONS BY CABLE SYS-
36 TEMS.—

37 (1) Notwithstanding those provisions of the second paragraph of
38 subsection (f) relating to nonsimultaneous secondary transmissions by
39 a cable system, any such transmissions are actionable as an act of in-

1 *fringement under section 501, and are fully subject to the remedies*
2 *provided by sections 502 through 506, unless—*

3 *(A) the program on the videotape is transmitted no more than*
4 *one time to the cable system's subscribers; and*

5 *(B) the copyrighted program, episode, or motion picture video-*
6 *tapes, including the commercials contained within such program,*
7 *episode, or picture, is transmitted without deletion or editing; and*

8 *(C) an owner or officer of the cable system (i) prevents the*
9 *duplication of the videotape while in the possession of the system,*
10 *(ii) prevents unauthorized duplication while in the possession of*
11 *the facility making the videotape for the system if the system*
12 *owns or controls the facility, or takes reasonable precautions to*
13 *prevent such duplication if it does not own or control the facility,*
14 *(iii) takes adequate precautions to prevent duplication while the*
15 *tape is being transported, and (iv) subject to clause (2), erases or*
16 *destroys, or causes the erasure or destruction of, the videotape;*
17 *and*

18 *(D) within forty-five days after the end of each calendar quar-*
19 *ter, an owner or officer of the cable system executes an affidavit*
20 *attesting (i) to the steps and precautions taken to prevent duplica-*
21 *tion of the videotape, and (ii) subject to clause (2), to the erasure*
22 *or destruction of all videotapes made or used during such quar-*
23 *ter; and*

24 *(E) such owner or officer places or causes each such affidavit,*
25 *and affidavits received pursuant to clause (2) (C), to be placed in*
26 *a file, open to public inspection, at such system's main office in*
27 *the community where the transmission is made or in the nearest*
28 *community where such system maintains an office; and*

29 *(F) the nonsimultaneous transmission is one that the cable sys-*
30 *tem would be authorized to transmit under the rules, regulations,*
31 *and authorizations of the Federal Communications Commission*
32 *in effect at the time of the nonsimultaneous transmission if the*
33 *transmission had been made simultaneously, except that this sub-*
34 *clause shall not apply to inadvertent or accidental transmissions.*

35 *(2) If a cable system transfers to any person a videotape of a pro-*
36 *gram nonsimultaneously transmitted by it, such transfer is actionable*
37 *as an act of infringement under section 501, and is fully subject to the*
38 *remedies provided by sections 502 through 506, except that, pursuant*
39 *to a written, nonprofit contract providing for the equitable sharing of*
40 *the cost of such videotape and its transfer, a videotape nonsimul-*

1 *taneously transmitted by it, in accordance with clause (1), may be*
 2 *transferred by one cable system in Alaska to another system in Alaska,*
 3 *by one cable system in Hawaii permitted to make such nonsimulta-*
 4 *neous transmissions to another such cable system in Hawaii, or by one*
 5 *cable system in Guam, the Northern Mariana Islands, or the Trust*
 6 *Territory of the Pacific Islands, to another cable system in any of those*
 7 *three territories, if—*

8 *(A) each such contract is available for public inspection in the*
 9 *offices of the cable systems involved, and a copy of such contract is*
 10 *filed, within thirty days after such contract is entered into, with*
 11 *the Copyright Office (which Office shall make each such contract*
 12 *available for public inspection); and*

13 *(B) the cable system to which the videotape is transferred com-*
 14 *plies with clause (1)(A), (B), (C) (i), (iii), and (iv), and (D)*
 15 *through (F); and*

16 *(C) such system provides a copy of the affidavit required to be*
 17 *made in accordance with clause (1)(D) to each cable system mak-*
 18 *ing a previous nonsimultaneous transmission of the same video-*
 19 *tape.*

20 *(3) This subsection shall not be construed to supersede the exclusiv-*
 21 *ity protection provisions of any existing agreement, or any such agree-*
 22 *ment hereafter entered into, between a cable system and a television*
 23 *broadcast station in the area in which the cable system is located, or a*
 24 *network with which such station is affiliated.*

25 *(4) As used in this subsection, the term "videotape", and each of its*
 26 *variant forms, means the reproduction of the images and sounds of a*
 27 *program or programs broadcast by a television broadcast station li-*
 28 *censed by the Federal Communications Commission, regardless of the*
 29 *nature of the material objects, such as tapes or films, in which the re-*
 30 *production is embodied.*

31 *(f) DEFINITIONS.—As used in this section, the following terms and*
 32 *their variant forms mean the following:*

33 *A "primary transmission" is a transmission made to the public*
 34 *by the transmitting facility whose signals are being received and*
 35 *further transmitted by the secondary transmission service, regard-*
 36 *less of where or when the performance or display was first trans-*
 37 *mitted.*

38 *A "secondary transmission" is the further transmitting of a*
 39 *primary transmission simultaneously with the primary transmis-*
 40 *sion, or nonsimultaneously with the primary transmission if by a*

1 "cable system" not located in whole or in part within the bound-
 2 ary of the forty-eight contiguous States, Hawaii, or Puerto Rico:
 3 Provided, however, That a nonsimultaneous further transmission
 4 by a cable system located in Hawaii of a primary transmission
 5 shall be deemed to be a secondary transmission if the carriage of
 6 the television broadcast signal comprising such further trans-
 7 mission is permissible under the rules, regulations, or authoriza-
 8 tions of the Federal Communications Commission.

9 A "cable system" is a facility, located in any State, territory,
 10 trust territory, or possession, that in whole or in part receives sig-
 11 nals transmitted or programs broadcast by one or more television
 12 broadcast stations licensed by the Federal Communications Com-
 13 mission, and makes secondary transmissions of such signals or
 14 programs by wires, cables, or other communications channels to
 15 subscribing members of the public who pay for such service. For
 16 purposes of determining the royalty fee under subsection (d) (2),
 17 two or more cable systems in contiguous communities under com-
 18 mon ownership or control or operating from one headend shall be
 19 considered as one system.

20 The "local service area of a primary transmitter", in the case of
 21 a television broadcast station, comprises the area in which such
 22 station is entitled to insist upon its signal being retransmitted by
 23 a cable system pursuant to the rules, regulations, and authoriza-
 24 tions of the Federal Communications Commission in effect on
 25 April 15, 1976, or in the case of a television broadcast station li-
 26 censed by an appropriate governmental authority of Canada or
 27 Mexico, the area in which it would be entitled to insist upon its
 28 signal being retransmitted if it were a television broadcast sta-
 29 tion subject to such rules, regulations, and authorizations. The
 30 "local service area of a primary transmitter", in the case of a
 31 radio broadcast station, comprises the primary service area of
 32 such station, pursuant to the rules and regulations of the Federal
 33 Communications Commission.

34 A "distant signal equivalent" is the value assigned to the sec-
 35 ondary transmission of any nonnetwork television programing
 36 carried by a cable system in whole or in part beyond the local
 37 service area of the primary transmitter of such programing. It is
 38 computed by assigning a value of one to each independent station
 39 and a value of one-quarter to each network station and noncom-
 40 mercial educational station for the nonnetwork programing so

1 carried pursuant to the rules, regulations, and authorizations of
 2 the Federal Communications Commission. The foregoing values
 3 for independent, network, and noncommercial educational sta-
 4 tions are subject, however, to the following exceptions and limi-
 5 tations. Where the rules and regulations of the Federal Communi-
 6 cations Commission require a cable system to omit the further
 7 transmission of a particular program and such rules and regula-
 8 tions also permit the substitution of another program embodying
 9 a performance or display of a work in place of the omitted trans-
 10 mission, or where such rules and regulations in effect on the date
 11 of enactment of this Act permit a cable system, at its election, to
 12 effect such deletion and substitution of a nonlive program or to
 13 carry additional programs not transmitted by primary transmit-
 14 ters within whose local service area the cable system is located,
 15 no value shall be assigned for the substituted or additional pro-
 16 gram; where the rules, regulations, or authorizations of the Fed-
 17 eral Communications Commission in effect on the date of enact-
 18 ment of this Act permit a cable system, at its election, to omit the
 19 further transmission of a particular program and such rules,
 20 regulations, or authorizations also permit the substitution of an-
 21 other program embodying a performance or display of a work
 22 in place of the omitted transmission, the value assigned for the
 23 substituted or additional program shall be, in the case of a live
 24 program, the value of one full distant signal equivalent multi-
 25 plied by a fraction that has as its numerator the number of days in
 26 the year in which such substitution occurs and as its denominator
 27 the number of days in the year. In the case of a station carried
 28 pursuant to the late-night or specialty programming rules of the
 29 Federal Communications Commission, or a station carried on a
 30 part-time basis where full-time carriage is not possible because
 31 the cable system lacks the activated channel capacity to retransmit
 32 on a full-time basis all signals which it is authorized to carry,
 33 the values for independent, network, and noncommercial educa-
 34 tional stations set forth above, as the case may be, shall be mul-
 35 tiplied by a fraction which is equal to the ratio of the broadcast
 36 hours of such station carried by the cable system to the total broad-
 37 cast hours of the station.

38 A "network station" is a television broadcast station that is
 39 owned or operated by, or affiliated with, one or more of the tele-
 40 vision networks in the United States providing nationwide trans-

missions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of that station's typical broadcast day.

An "independent station" is a commercial television broadcast station other than a network station.

A "noncommercial educational station" is a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it;

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance of a work under section 110(8) to make no more than one copy or phonorecord embodying the performance, if—

(1) the copy or phonorecord is retained and used solely by the organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for transmissions authorized under section 110(8), or for purposes of archival preservation or security.

(e) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the pre-existing works employed in the program.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of subsections (b) and (c) of this section, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

1 (b) *This title does not afford, to the owner of copyright in a work*
 2 *that portrays a useful article as such, any greater or lesser rights with*
 3 *respect to the making, distribution, or display of the useful article so*
 4 *portrayed than those afforded to such works under the law, whether*
 5 *title 17 or the common law or statutes of a State, in effect on Decem-*
 6 *ber 31, 1977, as held applicable and construed by a court in an action*
 7 *brought under this title.*

8 (c) *In the case of a work lawfully reproduced in useful articles*
 9 *that have been offered for sale or other distribution to the public,*
 10 *copyright does not include any right to prevent the making, distribu-*
 11 *tion, or display of pictures or photographs of such articles in connec-*
 12 *tion with advertisements or commentaries related to the distribution*
 13 *or display of such articles, or in connection with news reports.*

14 **§ 114. Scope of exclusive rights in sound recordings**

15 (a) *The exclusive rights of the owner of copyright in a sound*
 16 *recording are limited to the rights specified by clauses (1), (2), and*
 17 *(3) of section 106, and do not include any right of performance under*
 18 *section 106(4).*

19 (b) *The exclusive right of the owner of copyright in a sound re-*
 20 *cording under clause (1) of section 106 is limited to the right to*
 21 *duplicate the sound recording in the form of phonorecords, or of*
 22 *copies of motion pictures and other audiovisual works, that directly*
 23 *or indirectly recapture the actual sounds fixed in the recording. The*
 24 *exclusive right of the owner of copyright in a sound recording under*
 25 *clause (2) of section 106 is limited to the right to prepare a derivative*
 26 *work in which the actual sounds fixed in the sound recording are re-*
 27 *arranged, remixed, or otherwise altered in sequence or quality. The*
 28 *exclusive rights of the owner of copyright in a sound recording under*
 29 *clauses (1) and (2) of section 106 do not extend to the making or*
 30 *duplication of another sound recording that consists entirely of an*
 31 *independent fixation of other sounds, even though such sounds imitate*
 32 *or simulate those in the copyrighted sound recording. The exclusive*
 33 *rights of the owner of copyright in a sound recording under clauses*
 34 *(1), (2), and (3) of section 106 do not apply to sound recordings in-*
 35 *cluded in educational television and radio programs (as defined in*
 36 *section 397 of title 47) distributed or transmitted by or through pub-*
 37 *lic broadcasting entities (as defined by section 118(g)): Provided,*
 38 *That copies or phonorecords of said programs are not commercially*
 39 *distributed by or through public broadcasting entities to the general*
 40 *public.*

1 (c) *This section does not limit or impair the exclusive right to per-*
 2 *form publicly, by means of a phonorecord, any of the works specified*
 3 *by section 106(4).*

4 (d) *On January 3, 1978, the Register of Copyrights, after consult-*
 5 *ing with representatives of owners of copyrighted materials, repre-*
 6 *sentatives of the broadcasting, recording, motion picture, entertain-*
 7 *ment industries, and arts organizations, representatives of organized*
 8 *labor and performers of copyrighted materials, shall submit to the*
 9 *Congress a report setting forth recommendations as to whether this*
 10 *section should be amended to provide for performers and copyright*
 11 *owners of copyrighted material any performance rights in such mate-*
 12 *rial. The report should describe the status of such rights in foreign*
 13 *countries, the views of major interested parties, and specific legisla-*
 14 *tive or other recommendations, if any.*

15 **§ 115. Scope of exclusive rights in nondramatic musical works:**
 16 **Compulsory license for making and distributing phono-**
 17 **records**

18 *In the case of nondramatic musical works, the exclusive rights pro-*
 19 *vided by clauses (1) and (3) of section 106, to make and to distribute*
 20 *phonorecords of such works, are subject to compulsory licensing under*
 21 *the conditions specified by this section.*

22 (a) **AVAILABILITY AND SCOPE OF COMPULSORY LICENSE.—**

23 (1) *When phonorecords of a nondramatic musical work have been*
 24 *distributed to the public in the United States under the authority of*
 25 *the copyright owner, any other person may, by complying with the*
 26 *provisions of this section, obtain a compulsory license to make and*
 27 *distribute phonorecords of the work. A person may obtain a compul-*
 28 *sory license only if his or her primary purpose in making phono-*
 29 *records is to distribute them to the public for private use. A person*
 30 *may not obtain a compulsory license for use of the work in the making*
 31 *of phonorecords duplicating a sound recording fixed by another,*
 32 *unless: (i) such sound recording was fixed lawfully; and (ii) the*
 33 *making of the phonorecords was authorized by the owner of copyright*
 34 *in the sound recording or, if the sound recording was fixed before*
 35 *February 15, 1972, by any person who fixed the sound recording pur-*
 36 *suant to an express license from the owner of the copyright in the*
 37 *musical work or pursuant to a valid compulsory license for use of such*
 38 *work in a sound recording.*

39 (2) *A compulsory license includes the privilege of making a musical*
 40 *arrangement of the work to the extent necessary to conform it to the*

1 style or manner of interpretation of the performance involved, but the
 2 arrangement shall not change the basic melody or fundamental char-
 3 acter of the work, and shall not be subject to protection as a derivative
 4 work under this title, except with the express consent of the copyright
 5 owner.

6 (b) NOTICE OF INTENTION TO OBTAIN COMPULSORY LICENSE.—

7 (1) Any person who wishes to obtain a compulsory license under this
 8 section shall, before or within thirty days after making, and before
 9 distributing any phonorecords of the work, serve notice of intention to
 10 do so on the copyright owner. If the registration or other public records
 11 of the Copyright Office do not identify the copyright owner and in-
 12 clude an address at which notice can be served, it shall be sufficient to
 13 file the notice of intention in the Copyright Office. The notice shall
 14 comply, in form, content, and manner of service, with requirements that
 15 the Register of Copyrights shall prescribe by regulation.

16 (2) Failure to serve or file the notice required by clause (1) fore-
 17 closes the possibility of a compulsory license and, in the absence of a
 18 negotiated license, renders the making and distribution of phono-
 19 records actionable as acts of infringement under section 501 and fully
 20 subject to the remedies provided by sections 502 through 506.

21 (c) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

22 (1) To be entitled to receive royalties under a compulsory license, the
 23 copyright owner must be identified in the registration or other public
 24 records of the Copyright Office. The owner is entitled to royalties for
 25 phonorecords made and distributed after being so identified, but is not
 26 entitled to recover for any phonorecords previously made and dis-
 27 tributed.

28 (2) Except as provided by clause (1), the royalty under a compul-
 29 sory license shall be payable for every phonorecord made and distri-
 30 buted in accordance with the license. For this purpose, a phonorecord
 31 is considered "distributed" if the person exercising the compulsory
 32 license has voluntarily and permanently parted with its possession.
 33 With respect to each work embodied in the phonorecord, the royalty
 34 shall be either two and three-fourth cents, or six-tenth of one cent per
 35 minute of playing time or fraction thereof, whichever amount is
 36 larger.

37 (3) Royalty payments shall be made on or before the twentieth day
 38 of each month and shall include all royalties for the month next pre-
 39 ceding. Each monthly payment shall be made under oath and shall
 40 comply with requirements that the Register of Copyrights shall pre-

1 scribe by regulation. The Register shall also prescribe regulations under
 2 which detailed cumulative annual statements of account, certified by
 3 a certified public accountant, shall be filed for every compulsory license
 4 under this section. The regulations covering both the monthly and
 5 the annual statements of account shall prescribe the form, content, and
 6 manner of certification with respect to the number of records made and
 7 the number of records distributed.

8 (4) If the copyright owner does not receive the monthly payment
 9 and the monthly and annual statements of account when due, the owner
 10 may give written notice to the licensee that, unless the default is reme-
 11 died within 30 days from the date of the notice, the compulsory license
 12 will be automatically terminated. Such termination renders either the
 13 making or the distribution, or both, of all phonorecords for which the
 14 royalty had not been paid, actionable as acts of infringement under
 15 section 501 and fully subject to the remedies provided by sections 502
 16 through 506.

17 **§ 116. Scope of exclusive rights in nondramatic musical works:**
 18 **Public performances by means of coin-operated phono-**
 19 **record players**

20 (a) **LIMITATION ON EXCLUSIVE RIGHT.**—In the case of a nondramatic
 21 musical work embodied in a phonorecord, the exclusive right under
 22 clause (4) of section 106 to perform the work publicly by means of a
 23 coin-operated phonorecord player is limited as follows:

24 (1) The proprietor of the establishment in which the public
 25 performance takes place is not liable for infringement with respect
 26 to such public performance unless—

27 (A) such proprietor is the operator of the phonorecord
 28 player; or

29 (B) such proprietor refuses or fails, within one month
 30 after receipt by registered or certified mail of a request, at a
 31 time during which the certificate required by clause (1) (C)
 32 of subsection (b) is not affixed to the phonorecord player, by
 33 the copyright owner, to make full disclosure, by registered or
 34 certified mail, of the identity of the operator of the phono-
 35 record player.

36 (2) The operator of the coin-operated phonorecord player may
 37 obtain a compulsory license to perform the work publicly on that
 38 phonorecord player by filing the application, affixing the certifi-
 39 cate, and paying the royalties provided by subsection (b).

1 (b) *RECORDATION OF COIN-OPERATED PHONORECORD PLAYER, AFFIXA-*
 2 *TION OF CERTIFICATE, AND ROYALTY PAYABLE UNDER COMPULSORY*
 3 *LICENSE.—*

4 (1) *Any operator who wishes to obtain a compulsory license for the*
 5 *public performance of works on a coin-operated phonorecord player*
 6 *shall fulfill the following requirements:*

7 (A) *Before or within one month after such performances are*
 8 *made available on a particular phonorecord player, and during*
 9 *the month of January in each succeeding year that such perform-*
 10 *ances are made available on that particular phonorecord player,*
 11 *the operator shall file in the Copyright Office, in accordance with*
 12 *requirements that the Register of Copyrights, after consultation*
 13 *with the Copyright Royalty Commission, shall prescribe by reg-*
 14 *ulation, an application containing the name and address of the*
 15 *operator of the phonorecord player and the manufacturer and*
 16 *serial number or other explicit identification of the phonorecord*
 17 *player, and deposit with the Register of Copyrights a royalty*
 18 *fee for the current calendar year of \$8 for that particular phono-*
 19 *record player. If such performances are made available on a*
 20 *particular phonorecord player for the first time after July 1*
 21 *of any year, the royalty fee to be deposited for the remainder of*
 22 *that year shall be \$4.*

23 (B) *Within twenty days of receipt of an application and a*
 24 *royalty fee pursuant to subclause (A), the Register of Copyrights*
 25 *shall issue to the applicant a certificate for the phonorecord*
 26 *player.*

27 (C) *On or before March 1 of the year in which the certificate*
 28 *prescribed by subclause (B) of this clause is issued, or within ten*
 29 *days after the date of issue of the certificate, the operator shall*
 30 *affix to the particular phonorecord player, in a position where it*
 31 *can be readily examined by the public, the certificate, issued by*
 32 *the Register of Copyrights under subclause (B), of the latest*
 33 *application made by such operator under subclause (A) of this*
 34 *clause with respect to that phonorecord player.*

35 (2) *Failure to file the application, to affix the certificate, or to pay*
 36 *the royalty required by clause (1) of this subsection renders the public*
 37 *performance actionable as an act of infringement under section 501*
 38 *and fully subject to the remedies provided by sections 502 through 506.*

39 (c) *DISTRIBUTION OF ROYALTIES.—*

40 (1) *The Register of Copyrights shall receive all fees deposited under*

1 this section and, after deducting the reasonable costs incurred by the
 2 Copyright Office under this section, shall deposit the balance in the
 3 Treasury of the United States, in such manner as the Secretary of the
 4 Treasury directs, for later distribution by the Copyright Royalty
 5 Commission as provided by this title. The Register shall submit to the
 6 Copyright Royalty Commission, on an annual basis, a detailed state-
 7 ment of account covering all fees received for the relevant period pro-
 8 vided by subsection (b).

9 (2) During the month of January in each year, every person claim-
 10 ing to be entitled to compulsory license fees under this section for per-
 11 formances during the preceding twelve-month period shall file a claim
 12 with the Copyright Royalty Commission, in accordance with require-
 13 ments that the Commission shall prescribe by regulation. Such claim
 14 shall include an agreement to accept as final, except as provided in
 15 section 809 of this title, the determination of the Copyright Royalty
 16 Commission in any controversy concerning the distribution of royalty
 17 fees deposited under subclause (A) of subsection (b) (1) of this sec-
 18 tion to which the claimant is a party. Notwithstanding any provisions
 19 of the antitrust laws (within the meaning of section 12 of title 15),
 20 for purposes of this subsection any claimants may agree among them-
 21 selves as to the proportionate division of compulsory licensing fees
 22 among them, may lump their claims together and file them jointly or
 23 as a single claim, or may designate a common agent to receive payment
 24 on their behalf.

25 (3) After the first day of October of each year, the Copyright
 26 Royalty Commission shall determine whether there exists a contro-
 27 versy concerning the distribution of royalty fees deposited under sub-
 28 clause (A) of subsection (b) (1). If the Commission determines that
 29 no such controversy exists, it shall, after deducting its reasonable ad-
 30 ministrative costs under this section, distribute such fees to the copy-
 31 right owners entitled, or to their designated agents. If it finds that
 32 such a controversy exists, it shall, pursuant to chapter 8 of this title,
 33 conduct a proceeding to determine the distribution of royalty fees.

34 (4) The fees to be distributed shall be divided as follows:

35 (A) To every copyright owner not affiliated with a performing
 36 rights society, the pro rata share of the fees to be distributed to
 37 which such copyright owner proves entitlement.

38 (B) To the performing rights societies, the remainder of the
 39 fees to be distributed in such pro rata shares as they shall by agree-

1 *ment stipulate among themselves, or, if they fail to agree, the pro*
 2 *rata share to which such performing rights societies prove*
 3 *entitlement.*

4 *(C) During the pendency of any proceeding under this section,*
 5 *the Copyright Royalty Commission shall withhold from distri-*
 6 *butions an amount sufficient to satisfy all claims with respect to*
 7 *which a controversy exists, but shall have discretion to proceed to*
 8 *distribute any amounts that are not in controversy.*

9 *(5) The Copyright Royalty Commission shall promulgate regula-*
 10 *tions under which persons who can reasonably be expected to have*
 11 *claims may, during the year in which performances take place, with-*
 12 *out expense to or harassment of operators or proprietors of establish-*
 13 *ments in which phonorecord players are located, have such access to*
 14 *such establishments and to the phonorecord players located therein*
 15 *and such opportunity to obtain information with respect thereto as*
 16 *may be reasonably necessary to determine, by sampling procedures*
 17 *or otherwise, the proportion of contribution of the musical works of*
 18 *each such person to the earnings of the phonorecord players for which*
 19 *fees shall have been deposited. Any person who alleges that he or*
 20 *she has been denied the access permitted under the regulations pre-*
 21 *scribed by the Copyright Royalty Commission may bring an action*
 22 *in the United States District Court for the District of Columbia for*
 23 *the cancellation of the compulsory license of the phonorecord player*
 24 *to which such access has been denied, and the court shall have the*
 25 *power to declare the compulsory license thereof invalid from the date*
 26 *of issue thereof.*

27 *(d) CRIMINAL PENALTIES.—Any person who knowingly makes a false*
 28 *representation of a material fact in an application filed under clause*
 29 *(1) (A) of subsection (b), or who knowingly alters a certificate issued*
 30 *under clause (1) (B) of subsection (b) or knowingly affixes such a*
 31 *certificate to a phonorecord player other than the one it covers, shall*
 32 *be fined not more than \$2,500.*

33 *(e) DEFINITIONS.—As used in this section, the following terms and*
 34 *their variant forms mean the following:*

35 *(1) A "coin-operated phonorecord player" is a machine or de-*
 36 *vice that—*

37 *(A) is employed solely for the performance of nondrama-*
 38 *tistic musical works by means of phonorecords upon being ac-*
 39 *tivated by insertion of coins, currency, tokens, or other mone-*
 40 *tary units or their equivalent:*

1 (B) is located in an establishment making no direct or in-
2 direct charge for admission;

3 (C) is accompanied by a list of the titles of all the musical
4 works available for performance on it, which list is affixed
5 to the phonorecord player or posted in the establishment in
6 a prominent position where it can be readily examined by
7 the public; and

8 (D) affords a choice of works available for performance
9 and permits the choice to be made by the patrons of the es-
10 tablishment in which it is located.

11 (2) An "operator" is any person who, alone or jointly with
12 others:

13 (A) owns a coin-operated phonorecord player; or

14 (B) has the power to make a coin-operated phonorecord
15 player available for placement in an establishment for pur-
16 poses of public performance; or

17 (C) has the power to exercise primary control over the
18 selection of the musical works made available for public per-
19 formance on a coin-operated phonorecord player.

20 (3) A "performing rights society" is an association or corpora-
21 tion that licenses the public performance of nondramatic musical
22 works on behalf of the copyright owners, such as the American
23 Society of Composers, Authors and Publishers, Broadcast Music,
24 Inc., and SESAC, Inc.

25 **§ 117. Scope of exclusive rights: Use in conjunction with com-**
26 **puters and similar information systems**

27 Notwithstanding the provisions of sections 106 through 116 and 118,
28 this title does not afford to the owner of copyright in a work any
29 greater or lesser rights with respect to the use of the work in conjunc-
30 tion with automatic systems capable of storing, processing, retrieving,
31 or transferring information, or in conjunction with any similar device,
32 machine, or process, than those afforded to works under the law,
33 whether title 17 or the common law or statutes of a State, in effect on
34 December 31, 1977, as held applicable and construed by a court in an
35 action brought under this title.

36 **§ 118. Scope of exclusive rights: Use of certain works in connec-**
37 **tion with noncommercial broadcasting**

38 (a) The exclusive rights provided by section 106 shall, with respect
39 to the works specified by subsection (b) and the activities specified

1 by subsection (d), be subject to the conditions and limitations pre-
 2 scribed by this section.

3 (b) Not later than thirty days following the date of publication by
 4 the President of the notice announcing the initial appointments of
 5 the members of the Copyright Royalty Commission, as provided by
 6 section 801 (c), the Chairman of the Commission shall cause notice to
 7 be published in the Federal Register of the initiation of proceedings
 8 for the purpose of determining reasonable terms and rates of royalty
 9 payments for the activities specified by subsection (d) with respect to
 10 published nondramatic musical works and published pictorial,
 11 graphic, and sculptural works during a period beginning as provided
 12 in clause (3) of this subsection and ending on December 31, 1982.
 13 Copyright owners and public broadcasting entities shall negotiate in
 14 good faith and cooperate fully with the Commission in an effort to
 15 reach reasonable and expeditious results. Notwithstanding any pro-
 16 vision of the antitrust laws (within the meaning of section 12 of title
 17 15), any owners of copyright in works specified by this subsection and
 18 any public broadcasting entities, respectively, may negotiate and agree
 19 upon the terms and rates of royalty payments and the proportionate
 20 division of fees paid among various copyright owners, and may de-
 21 signate common agents to negotiate, agree to, pay, or receive payments.

22 (1) Any owner of copyright in a work specified in this sub-
 23 section or any public broadcasting entity may, within one hun-
 24 dred and twenty days after publication of the notice specified in
 25 this subsection, submit to the Copyright Royalty Commission
 26 proposed licenses covering such activities with respect to such
 27 works. The Copyright Royalty Commission shall proceed on the
 28 basis of the proposals submitted to it as well as any other relevant
 29 information. The Copyright Royalty Commission shall permit
 30 any interested party to submit information relevant to such
 31 proceedings.

32 (2) License agreements voluntarily negotiated at any time be-
 33 tween one or more copyright owners and one or more public broad-
 34 casting entities shall be given effect in lieu of any determination
 35 by the Commission: Provided, That copies of such agreements are
 36 filed in the Copyright Office within thirty days of execution in ac-
 37 cordance with regulations that the Register of Copyrights shall
 38 prescribe.

39 (3) Within six months, but not earlier than one hundred and
 40 twenty days, from the date of publication of the notice specified in

1 *this subsection the Copyright Royalty Commission shall make a*
 2 *determination and publish in the Federal Register a schedule of*
 3 *rates and terms which, subject to clause (2) of this subsection,*
 4 *shall be binding on all owners of copyright in works specified by*
 5 *this subsection and public broadcasting entities, regardless of*
 6 *whether or not such copyright owners and public broadcasting*
 7 *entities have submitted proposals to the Commission. In establish-*
 8 *ing such rates and terms the Copyright Royalty Commission may*
 9 *consider the rates for comparable circumstances under voluntary*
 10 *license agreements negotiated as provided in clause (2) of this*
 11 *subsection. The Copyright Royalty Commission shall also estab-*
 12 *lish requirements by which copyright owners may receive reason-*
 13 *able notice of the use of their works under this section, and under*
 14 *which records of such use shall be kept by public broadcasting*
 15 *entities.*

16 (4) *With respect to the period beginning on the effective date*
 17 *of this title and ending on the date of publication of such rates*
 18 *and terms, this title shall not afford to owners of copyright or pub-*
 19 *lic broadcasting entities any greater or lesser rights with respect*
 20 *to the activities specified in subsection (d) as applied to works*
 21 *specified in this subsection than those afforded under the law in*
 22 *effect on December 31, 1977, as held applicable and construed by*
 23 *a court in an action brought under this title.*

24 (c) *The initial procedure specified in subsection (b) shall be re-*
 25 *peated and concluded between June 30 and December 31, 1982, and at*
 26 *five-year intervals thereafter, in accordance with regulations that the*
 27 *Copyright Royalty Commission shall prescribe.*

28 (d) *Subject to the transitional provisions of subsection (b) (4), and*
 29 *to the terms of any voluntary license agreements that have been ne-*
 30 *gotiated as provided by subsection (b) (2), a public broadcasting en-*
 31 *tity may, upon compliance with the provisions of this section, including*
 32 *the rates and terms established by the Copyright Royalty Commission*
 33 *under subsection (b) (3), engage in the following activities with re-*
 34 *spect to published nondramatic musical works and published pictorial,*
 35 *graphic, and sculptural works:*

36 (1) *performance or display of a work by or in the course of a*
 37 *transmission made by a noncommercial educational broadcast sta-*
 38 *tion referred to in subsection (g);*

39 (2) *production of a transmission program, reproduction of*

1 *copies or phonorecords of such a transmission program, and dis-*
 2 *tribution of such copies or phonorecords, where such production,*
 3 *reproduction, or distribution is made by a nonprofit institution or*
 4 *organization solely for the purpose of transmissions specified in*
 5 *clause (1); and*

6 *(3) the making of reproductions by a governmental body or a*
 7 *nonprofit institution of a transmission program simultaneously*
 8 *with its transmission as specified in clause (1), and the perform-*
 9 *ance or display of the contents of such program under the condi-*
 10 *tions specified by clause (1) of section 110, but only if the repro-*
 11 *ductions are used for performances or displays for a period of no*
 12 *more than seven days from the date of the transmission specified*
 13 *in clause (1), and are destroyed before or at the end of such period.*
 14 *No person supplying, in accordance with clause (2), a reproduc-*
 15 *tion of a transmission program to governmental bodies or non-*
 16 *profit institutions under this clause shall have any liability as a*
 17 *result of failure of such body or institution to destroy such repro-*
 18 *duction: Provided, That it shall have notified such body or insti-*
 19 *tution of the requirement for such destruction pursuant to this*
 20 *clause: And provided further, That if such body or institution*
 21 *itself fails to destroy such reproduction it shall be deemed to have*
 22 *infringed.*

23 *(c) Except as expressly provided in this subsection, this section*
 24 *shall have no applicability to works other than those specified in sub-*
 25 *section (b).*

26 *(1) Owners of copyright in nondramatic literary works and*
 27 *public broadcasting entities may, during the course of voluntary*
 28 *negotiations, agree among themselves, respectively, as to the terms*
 29 *and rates of royalty payments without liability under the anti-*
 30 *trust laws (within the meaning of section 12 of title 15). Any*
 31 *such terms and rates of royalty payments shall be effective upon*
 32 *filing in the Copyright Office, in accordance with regulations that*
 33 *the Register of Copyrights shall prescribe.*

34 *(2) On January 3, 1980, the Register of Copyrights, after con-*
 35 *sulting with authors and other owners of copyright in nondra-*
 36 *matic literary works and their representatives, and with public*
 37 *broadcasting entities and their representatives, shall submit to*
 38 *the Congress a report setting forth the extent to which voluntary*
 39 *licensing arrangements have been reached with respect to the use*
 40 *of nondramatic literary works by such broadcast stations. The*

1 report should also describe any problems that may have arisen,
2 and present legislative or other recommendations, if warranted.

3 (f) Nothing in this section shall be construed to permit, beyond
4 the limits of fair use as provided by section 107, the unauthorized dra-
5 matization of a nondramatic musical work, the production of a trans-
6 mission program drawn to any substantial extent from a published
7 compilation of pictorial, graphic, or sculptural works, or the unau-
8 thorized use of any portion of an audiovisual work.

9 (g) As used in this section, the term "public broadcasting entity"
10 means a noncommercial educational broadcast station as defined in
11 section 397 of title 47 and any nonprofit institution or organization
12 engaged in the activities described in clause (2) of subsection (d).

13 **Chapter 2.—COPYRIGHT OWNERSHIP AND** 14 **TRANSFER**

See,

201. Ownership of copyright.

202. Ownership of copyright as distinct from ownership of material object.

203. Termination of transfers and licenses granted by the author.

204. Execution of transfers of copyright ownership.

205. Recordation of transfers and other documents.

15 **§ 201. Ownership of copyright**

16 (a) **INITIAL OWNERSHIP.**—Copyright in a work protected under this
17 title rests initially in the author or authors of the work. The authors
18 of a joint work are coowners of copyright in the work.

19 (b) **WORKS MADE FOR HIRE.**—In the case of a work made for hire,
20 the employer or other person for whom the work was prepared is con-
21 sidered the author for purposes of this title, and, unless the parties
22 have expressly agreed otherwise in a written instrument signed by
23 them, owns all of the rights comprised in the copyright.

24 (c) **CONTRIBUTIONS TO COLLECTIVE WORKS.**—Copyright in each sepa-
25 rate contribution to a collective work is distinct from copyright in the
26 collective work as a whole, and rests initially in the author of the
27 contribution. In the absence of an express transfer of the copyright
28 or of any rights under it, the owner of copyright in the collective work
29 is presumed to have acquired only the privilege of reproducing and
30 distributing the contribution as part of that particular collective work,
31 any revision of that collective work, and any later collective work in
32 the same series.

33 (d) **TRANSFER OF OWNERSHIP.**—

34 (1) The ownership of a copyright may be transferred in whole or
35 in part by any means of conveyance or by operation of law, and may be

1 bequeathed by will or pass as personal property by the applicable laws
2 of intestate succession.

3 (2) Any of the exclusive rights comprised in a copyright, includ-
4 ing any subdivision of any of the rights specified by section 106, may
5 be transferred as provided by clause (1) and owned separately. The
6 owner of any particular exclusive right is entitled, to the extent of
7 that right, to all of the protection and remedies accorded to the copy-
8 right owner by this title.

9 (e) INVOLUNTARY TRANSFER.—When an individual author's owner-
10 ship of a copyright, or of any of the exclusive rights under a copy-
11 right, has not previously been transferred voluntarily by the individual
12 author, no action by any governmental body or other official or orga-
13 nization purporting to seize, expropriate, transfer, or exercise rights
14 of ownership with respect to the copyright, or any of the exclusive
15 rights under a copyright, shall be given effect under this title.

16 **§ 202. Ownership of copyright as distinct from ownership of**
17 **material object**

18 Ownership of a copyright, or of any of the exclusive rights under
19 a copyright, is distinct from ownership of any material object in
20 which the work is embodied. Transfer of ownership of any material
21 object, including the copy or phonorecord in which the work is first
22 fixed, does not of itself convey any rights in the copyrighted work
23 embodied in the object; nor, in the absence of an agreement, does
24 transfer of ownership of a copyright or of any exclusive rights under
25 a copyright convey property rights in any material object.

26 **§ 203. Termination of transfers and licenses granted by the author**

27 (a) CONDITIONS FOR TERMINATION.—In the case of any work other
28 than a work made for hire, the exclusive or nonexclusive grant of a
29 transfer or license of copyright or of any right under a copyright,
30 executed by the author on or after January 1, 1978, otherwise than
31 by will, is subject to termination under the following conditions:

32 (1) In the case of a grant executed by one author, termination
33 of the grant may be effected by that author or, if the author is
34 dead, by the person or persons who, under clause (2) of this
35 subsection, own and are entitled to exercise a total of more than
36 one-half of that author's termination interest. In the case of a
37 grant executed by two or more authors of a joint work, termina-
38 tion of the grant may be effected by a majority of the authors
39 who executed it; if any of such authors is dead, the termination
40 interest of any such author may be exercised as a unit by the

1 person or persons who, under clause (2) of this subsection, own
2 and are entitled to exercise a total of more than one-half of that
3 author's interest.

4 (2) Where an author is dead, his or her termination interest is
5 owned, and may be exercised, by his widow or her widower and
6 his or her children or grandchildren as follows:

7 (A) the widow or widower owns the author's entire termi-
8 nation interest unless there are any surviving children or
9 grandchildren of the author, in which case the widow or
10 widower owns one-half of the author's interest;

11 (B) the author's surviving children, and the surviving
12 children of any dead child of the author, own the author's
13 entire termination interest unless there is a widow or widower,
14 in which case the ownership of one-half of the author's in-
15 terest is divided among them;

16 (C) the rights of the author's children and grandchildren
17 are in all cases divided among them and exercised on a per
18 stirpes basis according to the number of such author's chil-
19 dren represented; the share of the children of a dead child in
20 a termination interest can be exercised only by the action of a
21 majority of them.

22 (3) Termination of the grant may be effected at any time dur-
23 ing a period of five years beginning at the end of thirty-five years
24 from the date of execution of the grant; or, if the grant covers the
25 right of publication of the work, the period begins at the end of
26 thirty-five years from the date of publication of the work under
27 the grant or at the end of forty years from the date of execution of
28 the grant, whichever term ends earlier.

29 (4) The termination shall be effected by serving an advance
30 notice in writing, signed by the number and proportion of owners
31 of termination interests required under clauses (1) and (2) of this
32 subsection, or by their duly authorized agents, upon the grantee
33 or the grantee's successor in title.

34 (A) The notice shall state the effective date of the termi-
35 nation, which shall fall within the five-year period specified
36 by clause (3) of this subsection, and the notice shall be served
37 not less than two or more than ten years before that date. A
38 copy of the notice shall be recorded in the Copyright Office
39 before the effective date of termination, as a condition to its
40 taking effect.

1 (B) The notice shall comply, in form, content, and manner
2 of service, with requirements that the Register of Copyrights
3 shall prescribe by regulation.

4 (5) Termination of the grant may be effected notwithstanding
5 any agreement to the contrary, including an agreement to make a
6 will or to make any future grant.

7 (b) *EFFECT OF TERMINATION.*—Upon the effective date of termina-
8 tion all rights under this title that were covered by the terminated
9 grant revert to the author, authors, and other persons owning termina-
10 tion interests under clauses (1) and (2) of subsection (a), including
11 those owners who did not join in signing the notice of termination
12 under clause (4) of subsection (a), but with the following limitations:

13 (1) A derivative work prepared under authority of the grant
14 before its termination may continue to be utilized under the terms
15 of the grant after its termination, but this privilege does not
16 extend to the preparation after the termination of other deriva-
17 tive works based upon the copyrighted work covered by the termi-
18 nated grant.

19 (2) The future rights that will revert upon termination of the
20 grant become vested on the date the notice of termination has been
21 served as provided by clause (4) of subsection (a). The rights vest
22 in the author, authors, and other persons named in, and in the
23 proportionate shares provided by, clauses (1) and (2) of sub-
24 section (a).

25 (3) Subject to the provisions of clause (4) of this subsection, a
26 further grant, or agreement to make a further grant, of any right
27 covered by a terminated grant is valid only if it is signed by the
28 same number and proportion of the owners, in whom the right has
29 vested under clause (2) of this subsection, as are required to ter-
30 minate the grant under clauses (1) and (2) of subsection (a).
31 Such further grant or agreement is effective with respect to all of
32 the persons in whom the right it covers has vested under clause (2)
33 of this subsection, including those who did not join in signing it. If
34 any person dies after rights under a terminated grant have vested
35 in him or her, that person's legal representatives, legatees, or heirs
36 at law represent him or her for purposes of this clause.

37 (4) A further grant, or agreement to make a further grant, of
38 any right covered by a terminated grant is valid only if it is made
39 after the effective date of the termination. As an exception, how-
40 ever, an agreement for such a further grant may be made betwee

1 the persons provided by clause (3) of this subsection and the orig-
 2 inal grantee or such grantee's successor in title, after the notice of
 3 termination has been served as provided by clause (4) of sub-
 4 section (a).

5 (5) Termination of a grant under this section affects only those
 6 rights covered by the grant that arise under this title, and in no
 7 way affects rights arising under any other Federal, State, or
 8 foreign laws.

9 (6) Unless and until termination is effected under this section,
 10 the grant, if it does not provide otherwise, continues in effect for
 11 the term of copyright provided by this title.

12 **§ 204. Execution of transfers of copyright ownership**

13 (a) A transfer of copyright ownership, other than by operation of
 14 law, is not valid unless an instrument of conveyance, or a note or
 15 memorandum of the transfer, is in writing and signed by the owner
 16 of the rights conveyed or such owner's duly authorized agent.

17 (b) A certificate of acknowledgement is not required for the validity
 18 of a transfer, but is prima facie evidence of the execution of the
 19 transfer if—

20 (1) in the case of a transfer executed in the United States, the
 21 certificate is issued by a person authorized to administer oaths
 22 within the United States; or

23 (2) in the case of a transfer executed in a foreign country, the
 24 certificate is issued by a diplomatic or consular officer of the United
 25 States, or by a person authorized to administer oaths whose
 26 authority is proved by a certificate of such an officer.

27 **§ 205. Recordation of transfers and other documents**

28 (a) *CONDITIONS FOR RECORDATION.*—Any transfer of copyright
 29 ownership or other document pertaining to a copyright may be re-
 30 corded in the Copyright Office if the document filed for recordation
 31 bears the actual signature of the person who executed it, or if it is
 32 accompanied by a sworn or official certification that it is a true copy
 33 of the original, signed document.

34 (b) *CERTIFICATE OF RECORDATION.*—The Register of Copyrights
 35 shall, upon receipt of a document as provided by subsection (a) and
 36 of the fee provided by section 708, record the document and return it
 37 with a certificate of recordation.

38 (c) *RECORDATION AS CONSTRUCTIVE NOTICE.*—Recordation of a docu-
 39 ment in the Copyright Office gives all persons constructive notice of
 40 the facts stated in the recorded document, but only if—

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) *RECORDATION AS PREREQUISITE TO INFRINGEMENT SUIT.*—No person claiming by virtue of a transfer to be the owner of a copyright or of any exclusive right under a copyright is entitled to institute an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) *PRIORITY BETWEEN CONFLICTING TRANSFERS.*—As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) *PRIORITY BETWEEN CONFLICTING TRANSFER OF OWNERSHIP AND NONEXCLUSIVE LICENSE.*—A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if—

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

Chapter 3.—DURATION OF COPYRIGHT

Sec.

301. Preemption with respect to other laws.

302. Duration of copyright: Works created on or after January 1, 1978.

303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978.

304. Duration of copyright: Subsisting copyrights.

305. Duration of copyright: Terminal date.

§ 301. Preemption with respect to other laws

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that

1 are fixed in a tangible medium of expression and come within the
 2 subject matter of copyright as specified by sections 102 and 103,
 3 whether created before or after that date and whether published or
 4 unpublished, are governed exclusively by this title. Thereafter, no
 5 person is entitled to any such right or equivalent right in any such
 6 work under the common law or statutes of any State.

7 (b) Nothing in this title annuls or limits any rights or remedies
 8 under the common law or statutes of any State with respect to—

9 (1) subject matter that does not come within the subject matter
 10 of copyright as specified by sections 102 and 103, including works
 11 of authorship not fixed in any tangible medium of expression; or

12 (2) any cause of action arising from undertakings commenced
 13 before January 1, 1978; or

14 (3) activities violating legal or equitable rights that are not
 15 equivalent to any of the exclusive rights within the general scope
 16 of copyright as specified by section 106, including rights against
 17 misappropriation not equivalent to any of such exclusive rights,
 18 breaches of contract, breaches of trust, trespass, conversion, in-
 19 vasion of privacy, defamation, and deceptive trade practices such
 20 as passing off and false representation.

21 (c) With respect to sound recordings fixed before February 15,
 22 1972, any rights or remedies under the common law or statutes of any
 23 State shall not be annulled or limited by this title until February 15,
 24 2047. The preemptive provisions of subsection (a) shall apply to any
 25 such rights and remedies pertaining to any cause of action arising
 26 from undertakings commenced on and after February 15, 2047. Not-
 27 withstanding the provisions of section 303, no sound recording fixed
 28 before February 15, 1972, shall be subject to copyright under this title
 29 before, on, or after February 15, 2047.

30 (d) Nothing in this title annuls or limits any rights or remedies
 31 under any other Federal statute.

32 **§ 302. Duration of copyright: Works created on or after January 1,**
 33 **1978**

34 (a) *IN GENERAL.*—Copyright in a work created on or after Janu-
 35 ary 1, 1978, subsists from its creation and, except as provided by the
 36 following subsections, endures for a term consisting of the life of the
 37 author and fifty years after the author's death.

38 (b) *JOINT WORKS.*—In the case of a joint work prepared by two or
 39 more authors who did not work for hire, the copyright endures for a

1 term consisting of the life of the last surviving author and fifty years
2 after such last surviving author's death.

3 (c) *ANONYMOUS WORKS, PSEUDONYMOUS WORKS, AND WORKS MADE*
4 *FOR HIRE.*—In the case of an anonymous work, a pseudonymous work,
5 or a work made for hire, the copyright endures for a term of seventy-
6 five years from the year of its first publication, or a term of one hun-
7 dred years from the year of its creation, whichever expires first. If,
8 before the end of such term, the identity of one or more of the authors
9 of an anonymous or pseudonymous work is revealed in the records of a
10 registration made for that work under subsections (a) or (d) of section
11 408, or in the records provided by this subsection, the copyright in the
12 work endures for the term specified by subsections (a) or (b), based
13 on the life of the author or authors whose identity has been revealed.
14 Any person having an interest in the copyright in an anonymous or
15 pseudonymous work may at any time record, in records to be main-
16 tained by the Copyright Office for that purpose, a statement identify-
17 ing one or more authors of the work; the statement shall also identify
18 the person filing it, the nature of that person's interest, the source of
19 the information recorded, and the particular work affected, and shall
20 comply in form and content with requirements that the Register of
21 Copyrights shall prescribe by regulation.

22 (d) *RECORDS RELATING TO DEATH OF AUTHORS.*—Any person having
23 an interest in a copyright may at any time record in the Copyright
24 Office a statement of the date of death of the author of the copyrighted
25 work, or a statement that the author is still living on a particular date.
26 The statement shall identify the person filing it, the nature of that
27 person's interest, and the source of the information recorded, and
28 shall comply in form and content with requirements that the Register
29 of Copyrights shall prescribe by regulation. The Register shall main-
30 tain current records of information relating to the death of authors
31 of copyrighted works, based on such recorded statements and, to the
32 extent the Register considers practicable, on data contained in any of
33 the records of the Copyright Office or in other reference sources.

34 (e) *PRESUMPTION AS TO AUTHOR'S DEATH.*—After a period of sev-
35 enty-five years from the year of first publication of a work, or a period
36 of one hundred years from the year of its creation, whichever expires
37 first, any person who obtains from the Copyright Office a certified
38 report that the records provided by subsection (d) disclose nothing to
39 indicate that the author of the work is living, or died less than fifty

1 years before, is entitled to the benefit of a presumption that the author
 2 has been dead for at least fifty years. Reliance in good faith upon this
 3 presumption shall be a complete defense to any action for infringement
 4 under this title.

5 **§ 303. Duration of copyright: Works created but not published or**
 6 **copyrighted before January 1, 1978**

7 Copyright in a work created before January 1, 1978, but not there-
 8 tofore in the public domain or copyrighted, subsists from January
 9 1, 1978, and endures for the term provided by section 302. In no case,
 10 however, shall the term of copyright in such a work expire before
 11 December 31, 2002; and if the work is published or before Decem-
 12 ber 31, 2002, the term of copyright shall not expire before December 31,
 13 2027.

14 **§ 304. Duration of copyright: Subsisting copyrights**

15 (a) **COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.**—Any
 16 copyright, the first term of which is subsisting on January 1, 1978,
 17 shall endure for twenty-eight years from the date it was originally
 18 secured: Provided, That in the case of any posthumous work or of any
 19 periodical, cyclopedic, or other composite work upon which the copy-
 20 right was originally secured by the proprietor thereof, or of any work
 21 copyrighted by a corporate body (otherwise than as assignee or licensee
 22 of the individual author) or by an employer for whom such work is
 23 made for hire, the proprietor of such copyright shall be entitled to a
 24 renewal and extension of the copyright in such work for the further
 25 term of forty-seven years when application for such renewal and exten-
 26 sion shall have been made to the Copyright Office and duly registered
 27 therein within one year prior to the expiration of the original term of
 28 copyright: And provided further, That in the case of any other copy-
 29 righted work, including a contribution by an individual author to a
 30 periodical or to a cyclopedic or other composite work, the author of
 31 such work, if still living, or the widow, widower, or children of the
 32 author, if the author be not living, or if such author, widow, widower,
 33 or children be not living, then the author's executors, or in the absence
 34 of a will, his or her next of kin shall be entitled to a renewal and exten-
 35 sion of the copyright in such work for a further term of forty-seven
 36 years when application for such renewal and extension shall have been
 37 made to the Copyright Office and duly registered therein within one
 38 year prior to the expiration of the original term of copyright: And
 39 provided further, That in default of the registration of such applica-
 40 tion for renewal and extension, the copyright in any work shall ter-

1 *minate at the expiration of twenty-eight years from the date copyright*
 2 *was originally secured.*

3 (b) *COPYRIGHTS IN THEIR RENEWAL TERM OR REGISTERED FOR RE-*
 4 *NEWAL BEFORE JANUARY 1, 1978.*—*The duration of any copyright, the*
 5 *renewal term of which is subsisting at any time between December 31,*
 6 *1976, and December 31, 1977, inclusive, or for which renewal registra-*
 7 *tion is made between December 31, 1976, and December 31, 1977, inclu-*
 8 *sive, is extended to endure for a term of seventy-five years from the*
 9 *date copyright was originally secured.*

10 (c) *TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED*
 11 *RENEWAL TERM.*—*In the case of any copyright subsisting in either*
 12 *its first or renewal term on January 1, 1978, other than a copyright in*
 13 *a work made for hire, the exclusive or nonexclusive grant of a transfer*
 14 *or license of the renewal copyright or any right under it, executed*
 15 *before January 1, 1978, by any of the persons designated by the second*
 16 *proviso of subsection (a) of this section, otherwise than by will, is*
 17 *subject to termination under the following conditions:*

18 (1) *In the case of a grant executed by a person or persons other*
 19 *than the author, termination of the grant may be effected by the*
 20 *surviving person or persons who executed it. In the case of a*
 21 *grant executed by one or more of the authors of the work, termi-*
 22 *nation of the grant may be effected, to the extent of a particular*
 23 *author's share in the ownership of the renewal copyright, by the*
 24 *author who executed it or, if such author is dead, by the person*
 25 *or persons who, under clause (2) of this subsection, own and are*
 26 *entitled to exercise a total of more than one-half of that author's*
 27 *termination interest.*

28 (2) *Where an author is dead, his or her termination interest is*
 29 *owned, and may be exercised, by his widow or her widower and his*
 30 *or her children or grandchildren as follows:*

31 (A) *the widow or widower owns the author's entire termi-*
 32 *nation interest unless there are any surviving children or*
 33 *grandchildren of the author, in which case the widow or*
 34 *widower owns one-half of the author's interest;*

35 (B) *the author's surviving children, and the surviving*
 36 *children of any dead child of the author, own the author's*
 37 *entire termination interest unless there is a widow or widower,*
 38 *in which case the ownership of one-half of the author's inter-*
 39 *est is divided among them;*

40 (C) *the rights of the author's children and grandchildren*

are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of

1 the authors of the work, all of a particular author's rights under
 2 this title that were covered by the terminated grant revert, upon
 3 the effective date of termination, to that author or, if that author
 4 is dead, to the persons owning his or her termination interest under
 5 clause (2) of this subsection, including those owners who did not
 6 join in signing the notice of termination under clause (4) of
 7 this subsection. In all cases the reversion of rights is subject to
 8 the following limitations:

9 (A) A derivative work prepared under authority of the
 10 grant before its termination may continue to be utilized under
 11 the terms of the grant after its termination, but this privilege
 12 does not extend to the preparation after the termination of
 13 other derivative works based upon the copyrighted work
 14 covered by the terminated grant.

15 (B) The future rights that will revert upon termination
 16 of the grant become vested on the date the notice of termina-
 17 tion has been served as provided by clause (4) of this sub-
 18 section.

19 (C) Where the author's rights revert to two or more per-
 20 sons under clause (2) of this subsection, they shall vest in
 21 those persons in the proportionate shares provided by that
 22 clause. In such a case, and subject to the provisions of sub-
 23 clause (D) of this clause, a further grant, or agreement to
 24 make a further grant, of a particular author's share with
 25 respect to any right covered by a terminated grant is valid
 26 only if it is signed by the same number and proportion of the
 27 owners, in whom the right has vested under this clause, as
 28 are required to terminate the grant under clause (2) of this
 29 subsection. Such further grant or agreement is effective with
 30 respect to all of the persons in whom the right it covers has
 31 vested under this subclause, including those who did not join
 32 in signing it. If any person dies after rights under a termi-
 33 nated grant have vested in him or her, that person's legal rep-
 34 resentatives, legatees, or heirs at law represent him or her
 35 for purposes of this subclause.

36 (D) A further grant, or agreement to make a further grant,
 37 of any right covered by a terminated grant is valid only if
 38 it is made after the effective date of the termination. As an
 39 exception, however, an agreement for such a further grant

may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.

401. Notice of copyright: Visually perceptible copies.

402. Notice of copyright: Phonorecords of sound recordings.

403. Notice of copyright: Publications incorporating United States Government works.

404. Notice of copyright: Contributions to collective works.

405. Notice of copyright: Omission of notice.

406. Notice of copyright: Error in name or date.

407. Deposit of copies or phonorecords for Library of Congress.

408. Copyright registration in general.

409. Application for registration.

410. Registration of claim and issuance of certificate.

411. Registration as prerequisite to infringement suit.

412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) GENERAL REQUIREMENT.—Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) FORM OF NOTICE.—The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of

1 *compilations or derivative works incorporating previously pub-*
 2 *lished material, the year date of first publication of the compila-*
 3 *tion or derivative work is sufficient. The year date may be omitted*
 4 *where a pictorial, graphic, or sculptural work, with accompany-*
 5 *ing text matter, if any, is reproduced in or on greeting cards, post-*
 6 *cards, stationery, jewelry, dolls, toys, or any useful articles; and*

7 (3) *the name of the owner of copyright in the work, or an*
 8 *abbreviation by which the name can be recognized, or a generally*
 9 *known alternative designation of the owner.*

10 (c) *POSITION OF NOTICE.*—*The notice shall be affixed to the copies*
 11 *in such manner and location as to give reasonable notice of the claim*
 12 *of copyright. The Register of Copyrights shall prescribe by regula-*
 13 *tion, as examples, specific methods of affixation and positions of the*
 14 *notice on various types of works that will satisfy this requirement, but*
 15 *these specifications shall not be considered exhaustive.*

16 **§ 402. Notice of copyright: Phonorecords of sound recordings**

17 (a) *GENERAL REQUIREMENT.*—*Whenever a sound recording pro-*
 18 *TECTED under this title is published in the United States or elsewhere by*
 19 *authority of the copyright owner, a notice of copyright as provided by*
 20 *this section shall be placed on all publicly distributed phonorecords*
 21 *of the sound recording.*

22 (b) *FORM OF NOTICE.*—*The notice appearing on the phonorecords*
 23 *shall consist of the following three elements:*

24 (1) *the symbol © (the letter P in a circle); and*

25 (2) *the year of first publication of the sound recording; and*

26 (3) *the name of the owner of copyright in the sound recording,*
 27 *or an abbreviation by which the name can be recognized, or a gen-*
 28 *erally known alternative designation of the owner; if the pro-*
 29 *ducer of the sound recording is named on the phonorecord labels*
 30 *or containers, and if no other name appears in conjunction with*
 31 *the notice, the producer's name shall be considered a part of the*
 32 *notice.*

33 (c) *POSITION OF NOTICE.*—*The notice shall be placed on the surface*
 34 *of the phonorecord, or on the phonorecord label or container, in such*
 35 *manner and location as to give reasonable notice of the claim of*
 36 *copyright.*

37 **§ 403. Notice of copyright: Publications incorporating United**
 38 **States Government works**

39 *Whenever a work is published in copies or phonorecords consisting*
 40 *preponderantly of one or more works of the United States Govern-*

1 *ment, the notice of copyright provided by sections 401 or 402 shall*
 2 *also include a statement identifying, either affirmatively or negatively,*
 3 *those portions of the copies or phonorecords embodying any work or*
 4 *works protected under this title.*

5 **§ 404. Notice of copyright: Contributions to collective works**

6 (a) *A separate contribution to a collective work may bear its own*
 7 *notice of copyright, as provided by sections 401 through 403. How-*
 8 *ever, a single notice applicable to the collective work as a whole is*
 9 *sufficient to satisfy the requirements of sections 401 through 403 with*
 10 *respect to the separate contributions it contains (not including ad-*
 11 *vertisements inserted on behalf of persons other than the owner of*
 12 *copyright in the collective work), regardless of the ownership of*
 13 *copyright in the contributions and whether or not they have been*
 14 *previously published.*

15 (b) *Where the person named in a single notice applicable to a col-*
 16 *lective work as a whole is not the owner of copyright in a separate*
 17 *contribution that does not bear its own notice, the case is governed*
 18 *by the provisions of section 406(a).*

19 **§ 405. Notice of copyright: Omission of notice**

20 (a) *EFFECT OF OMISSION ON COPYRIGHT.—The omission of the*
 21 *copyright notice prescribed by sections 401 through 403 from copies or*
 22 *phonorecords publicly distributed by authority of the copyright owner*
 23 *does not invalidate the copyright in a work if—*

24 (1) *the notice has been omitted from no more than a relatively*
 25 *small number of copies or phonorecords distributed to the public;*
 26 *or*

27 (2) *registration for the work has been made before or is made*
 28 *within five years after the publication without notice, and a*
 29 *reasonable effort is made to add notice to all copies or phono-*
 30 *records that are distributed to the public in the United States after*
 31 *the omission has been discovered; or*

32 (3) *the notice has been omitted in violation of an express re-*
 33 *quirement in writing that, as a condition of the copyright owner's*
 34 *authorization of the public distribution of copies or phonorecords,*
 35 *they bear the prescribed notice.*

36 (b) *EFFECT OF OMISSION ON INNOCENT INFRINGERS.—Any person*
 37 *who innocently infringes a copyright, in reliance upon an authorized*
 38 *copy or phonorecord from which the copyright notice has been*
 39 *omitted, incurs no liability for actual or statutory damages under*
 40 *section 504 for any infringing acts committed before receiving actual*

1 notice that registration for the work has been made under section
 2 408, if such person proves that he or she was misled by the omission
 3 of notice. In a suit for infringement in such a case the court may
 4 allow or disallow recovery of any of the infringer's profits attributa-
 5 ble to the infringement, and may enjoin the continuation of the in-
 6 fringing undertaking or may require, as a condition for permitting
 7 the continuation of the infringing undertaking, that the infringer
 8 pay the copyright owner a reasonable license fee in an amount and on
 9 terms fixed by the court.

10 (c) *REMOVAL OF NOTICE.*—Protection under this title is not affected
 11 by the removal, destruction, or obliteration of the notice, without the
 12 authorization of the copyright owner, from any publicly distributed
 13 copies or phonorecords.

14 **§ 406. Notice of copyright: Error in name or date**

15 (a) *ERROR IN NAME.*—Where the person named in the copyright
 16 notice on copies or phonorecords publicly distributed by authority
 17 of the copyright owner is not the owner of copyright, the validity and
 18 ownership of the copyright are not affected. In such a case, however,
 19 any person who innocently begins an undertaking that infringes the
 20 copyright has a complete defense to any action for such infringement
 21 if such person proves that he or she was misled by the notice and
 22 began the undertaking in good faith under a purported transfer or
 23 license from the person named therein, unless before the undertaking
 24 was begun—

25 (1) registration for the work had been made in the name of the
 26 owner of copyright; or

27 (2) a document executed by the person named in the notice
 28 and showing the ownership of the copyright had been recorded.
 29 The person named in the notice is liable to account to the copyright
 30 owner for all receipts from transfers or licenses purportedly made
 31 under the copyright by the person named in the notice.

32 (b) *ERROR IN DATE.*—When the year date in the notice on copies or
 33 phonorecords distributed by authority of the copyright owner is earlier
 34 than the year in which publication first occurred, any period computed
 35 from the year of first publication under section 302 is to be computed
 36 from the year in the notice. Where the year date is more than one
 37 year later than the year in which publication first occurred, the work
 38 is considered to have been published without any notice and is governed
 39 by the provisions of section 405.

40 (c) *OMISSION OF NAME OR DATE.*—Where copies or phonorecords

1 *publicly distributed by authority of the copyright owner contain no*
 2 *name or no date that could reasonably be considered a part of the*
 3 *notice, the work is considered to have been published without any*
 4 *notice and is governed by the provisions of section 405.*

5 **§ 407. Deposit of copies or phonorecords for Library of Congress**

6 *(a) Except as provided by subsection (c), and subject to the provi-*
 7 *sions of subsection (c), the owner of copyright or of the exclusive*
 8 *right of publication in a work published with notice of copyright in*
 9 *the United States shall deposit, within three months after the date*
 10 *of such publication—*

11 *(1) two complete copies of the best edition; or*

12 *(2) if the work is a sound recording, two complete phonorecords*
 13 *of the best edition, together with any printed or other visually*
 14 *perceptible material published with such phonorecords.*

15 *Neither the deposit requirements of this subsection nor the acquisition*
 16 *provisions of subsection (c) are conditions of copyright protection.*

17 *(b) The required copies or phonorecords shall be deposited in the*
 18 *Copyright Office for the use or disposition of the Library of Congress.*
 19 *The Register of Copyrights shall, when requested by the depositor*
 20 *and upon payment of the fee prescribed by section 708, issue a receipt*
 21 *for the deposit.*

22 *(c) The Register of Copyrights may by regulation exempt any cate-*
 23 *gories of material from the deposit requirements of this section, or*
 24 *require deposit of only one copy or phonorecord with respect to any*
 25 *categories. Such regulations shall provide either for complete exemp-*
 26 *tion from the deposit requirements of this section, or for alternative*
 27 *forms of deposit aimed at providing a satisfactory archival record of*
 28 *a work without imposing practical or financial hardships on the de-*
 29 *positor, where the individual author is the owner of copyright in a*
 30 *pictorial, graphic, or sculptural work and (i) less than five copies of*
 31 *the work have been published, or (ii) the work has been published in a*
 32 *limited edition consisting of numbered copies, the monetary value of*
 33 *which would make the mandatory deposit of two copies of the best*
 34 *edition of the work burdensome, unfair, or unreasonable.*

35 *(d) At any time after publication of a work as provided by sub-*
 36 *section (a), the Register of Copyrights may make written demand*
 37 *for the required deposit on any of the persons obligated to make the*
 38 *deposit under subsection (a). Unless deposit is made within three*
 39 *months after the demand is received, the person or persons on whom*
 40 *the demand was made are liable—*

- 1 (1) to a fine of not more than \$250 for each work;
- 2 (2) to pay into a specially designated fund in the Library of
- 3 Congress the total retail price of the copies or phonorecords de-
- 4 manded, or, if no retail price has been fixed, the reasonable cost
- 5 to the Library of Congress of acquiring them; and
- 6 (3) to pay a fine of \$2,500, in addition to any fine or liability
- 7 imposed under clauses (1) and (2), if such person willfully or
- 8 repeatedly fails or refuses to comply with such a demand.

9 (e) With respect to transmission programs that have been fixed and
 10 transmitted to the public in the United States but have not been pub-
 11 lished, the Register of Copyrights shall, after consulting with the
 12 Librarian of Congress and other interested organizations and officials,
 13 establish regulations governing the acquisition, through deposit or
 14 otherwise, of copies or phonorecords of such programs for the collec-
 15 tions of the Library of Congress.

16 (1) The Librarian of Congress shall be permitted, under the
 17 standards and conditions set forth in such regulations, to make a
 18 fixation of a transmission program directly from a transmission
 19 to the public, and to reproduce one copy or phonorecord from
 20 such fixation for archival purposes.

21 (2) Such regulations shall also provide standards and pro-
 22 cedures by which the Register of Copyrights may make written
 23 demand, upon the owner of the right of transmission in the United
 24 States, for the deposit of a copy or phonorecord of a specific trans-
 25 mission program. Such deposit may, at the option of the owner
 26 of the right of transmission in the United States, be accomplished
 27 by gift, by loan for purposes of reproduction, or by sale at a price
 28 not to exceed the cost of reproducing and supplying the copy or
 29 phonorecord. The regulations established under this clause shall
 30 provide reasonable periods of not less than three months for com-
 31 pliance with a demand, and shall allow for extensions of such
 32 periods and adjustments in the scope of the demand or the meth-
 33 ods for fulfilling it, as reasonably warranted by the circumstances.
 34 Willful failure or refusal to comply with the conditions pre-
 35 scribed by such regulations shall subject the owner of the right of
 36 transmission in the United States to liability for an amount, not
 37 to exceed the cost of reproducing and supplying the copy or
 38 phonorecord in question, to be paid into a specially designated
 39 fund in the Library of Congress.

(3) *Nothing in this subsection shall be construed to require the making or retention, for purposes of deposit, of any copy or phonorecord of an unpublished transmission program, the transmission of which occurs before the receipt of a specific written demand as provided by clause (2).*

(4) *No activity undertaken in compliance with regulations prescribed under clauses (1) or (2) of this subsection shall result in liability if intended solely to assist in the acquisition of copies or phonorecords under this subsection.*

§ 408. Copyright registration in general

(a) *REGISTRATION PERMISSIVE.—At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.*

(b) *DEPOSIT FOR COPYRIGHT REGISTRATION.—Except as provided by subsection (c), the material deposited for registration shall include—*

(1) *in the case of an unpublished work, one complete copy or phonorecord;*

(2) *in the case of a published work, two complete copies or phonorecords of the best edition;*

(3) *in the case of a work first published outside the United States, one complete copy or phonorecord as so published;*

(4) *in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.*

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require. The Register shall also prescribe regulations establishing requirements under which copies or phonorecords acquired for the Library of Congress under subsection (c) of section 407, otherwise than by deposit, may be used to satisfy the deposit provisions of this section.

1 (c) *ADMINISTRATIVE CLASSIFICATION AND OPTIONAL DEPOSIT.*—

2 (1) *The Register of Copyrights is authorized to specify by regu-*
 3 *lation the administrative classes into which works are to be placed*
 4 *for purposes of deposit and registration, and the nature of the copies*
 5 *or phonorecords to be deposited in the various classes specified. The*
 6 *regulations may require or permit, for particular classes, the deposit*
 7 *of identifying material instead of copies or phonorecords, the de-*
 8 *posit of only one copy or phonorecord where two would normally be*
 9 *required, or a single registration for a group of related works. This*
 10 *administrative classification of works has no significance with re-*
 11 *spect to the subject matter of copyright or the exclusive rights pro-*
 12 *vided by this title.*

13 (2) *Without prejudice to the general authority provided under*
 14 *clause (1), the Register of Copyrights shall establish regulations spe-*
 15 *cifically permitting a single registration for a group of works by the*
 16 *same individual author, all first published as contributions to periodi-*
 17 *cals, including newspapers, within a twelve-month period, on the basis*
 18 *of a single deposit, application, and registration fee, under all of the*
 19 *following conditions—*

20 (A) *if each of the works as first published bore a separate copy-*
 21 *right notice, and the name of the owner of copyright in the work,*
 22 *or an abbreviation by which the name can be recognized, or a gen-*
 23 *erally known alternative designation of the owner was the same in*
 24 *each notice; and*

25 (B) *if the deposit consists of one copy of the entire issue of the*
 26 *periodical or of the entire section in the case of a newspaper, in*
 27 *which each contribution was first published; and*

28 (C) *if the application identifies each work separately, includ-*
 29 *ing the periodical containing it and its date of first publication.*

30 (3) *As an alternative to separate renewal registrations under subsec-*
 31 *tion (a) of section 304, a single renewal registration may be made for*
 32 *a group of works by the same individual author, all first published as*
 33 *contributions to periodicals, including newspapers, upon the filing of*
 34 *a single application and fee, under all of the following conditions:*

35 (A) *the renewal claimant or claimants, and the basis of claim*
 36 *or claims under section 304(a), is the same for each of the works;*
 37 *and*

38 (B) *the works were all copyrighted upon their first publication,*
 39 *either through separate copyright notice and registration or by*

1 virtue of a general copyright notice in the periodical issue as a
2 whole; and

3 (C) the renewal application and fee are received not more than
4 twenty-eight or less than twenty-seven years after the thirty-first
5 day of December of the calendar year in which all of the works
6 were first published; and

7 (D) the renewal application identifies each work separately,
8 including the periodical containing it and its date of first pub-
9 lication.

10 (d) *CORRECTIONS AND AMPLIFICATIONS.*—The Register may also es-
11 tablish, by regulation, formal procedures for the filing of an appli-
12 cation for supplementary registration, to correct an error in a copy-
13 right registration or to amplify the information given in a regis-
14 tration. Such application shall be accompanied by the fee provided
15 by section 708, and shall clearly identify the registration to be cor-
16 rected or amplified. The information contained in a supplementary
17 registration augments but does not supersede that contained in the
18 earlier registration.

19 (e) *PUBLISHED EDITION OF PREVIOUSLY REGISTERED WORK.*—
20 Registration for the first published edition of a work previously reg-
21 istered in unpublished form may be made even though the work as
22 published is substantially the same as the unpublished version.

23 **§ 409. Application for registration**

24 The application for copyright registration shall be made on a form
25 prescribed by the Register of Copyrights and shall include—

26 (1) the name and address of the copyright claimant;

27 (2) in the case of a work other than an anonymous or pseudon-
28 ymous work, the name and nationality or domicile of the author
29 or authors, and, if one or more of the authors is dead, the dates of
30 their deaths;

31 (3) if the work is anonymous or pseudonymous, the nationality
32 or domicile of the author or authors;

33 (4) in the case of a work made for hire, a statement to this
34 effect;

35 (5) if the copyright claimant is not the author, a brief state-
36 ment of how the claimant obtained ownership of the copyright;

37 (6) the title of the work, together with any previous or alter-
38 native titles under which the work can be identified;

39 (7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any pre-existing work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction

1 to be acceptable for registration, have all been received in the Copy-
2 right Office.

3 **§ 411. Registration as prerequisite to infringement suit**

4 (a) Subject to the provisions of subsection (b), no action for in-
5 fringement of the copyright in any work shall be instituted until
6 registration of the copyright claim has been made in accordance with
7 this title. In any case, however, where the deposit, application, and
8 fee required for registration have been delivered to the Copyright
9 Office in proper form and registration has been refused, the applicant
10 is entitled to institute an action for infringement if notice thereof, with
11 a copy of the complaint, is served on the Register of Copyrights. The
12 Register may, at his or her option, become a party to the action with
13 respect to the issue of registrability of the copyright claim by enter-
14 ing an appearance within sixty days after such service, but the Regis-
15 ter's failure to become a party shall not deprive the court of jurisdic-
16 tion to determine that issue.

17 (b) In the case of a work consisting of sounds, images, or both,
18 the first fixation of which is made simultaneously with its transmission,
19 the copyright owner may, either before or after such fixation takes
20 place, institute an action for infringement under section 501, fully
21 subject to the remedies provided by sections 502 through 506, if, in
22 accordance with requirements that the Register of Copyrights shall
23 prescribe by regulation, the copyright owner—

24 (1) serves notice upon the infringer, not less than ten or more
25 than thirty days before such fixation, identifying the work and
26 the specific time and source of its first transmission, and declaring
27 an intention to secure copyright in the work; and

28 (2) makes registration for the work within three months after
29 its first transmission.

30 **§ 412. Registration as prerequisite to certain remedies for in-**
31 **fringement**

32 In any action under this title, other than an action instituted under
33 section 411(b), no award of statutory damages or of attorney's fees,
34 as provided by sections 504 and 505, shall be made for—

35 (1) any infringement of copyright in an unpublished work
36 commenced before the effective date of its registration; or

37 (2) any infringement of copyright commenced after first publi-
38 cation of the work and before the effective date of its registration,
39 unless such registration is made within three months after the
40 first publication of the work.

Chapter 5.—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.

501. Infringement of copyright.

502. Remedies for infringement: Injunctions.

503. Remedies for infringement: Impounding and disposition of infringing articles.

504. Remedies for infringement: Damages and profits.

505. Remedies for infringement: Costs and attorney's fees.

506. Criminal offenses.

507. Limitations on actions.

508. Notification of filing and determination of actions.

509. Remedies for alteration of programing by cable systems.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205(d) and 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

(d) For any secondary transmission by a cable system that is actionable as an act of infringement pursuant to section 111(c)(3), the following shall also have standing to sue: (i) the primary transmitter whose transmission has been altered by the cable system; and (ii) any broadcast station within whose local service area the secondary transmission occurs.

1 **§ 502. Remedies for infringement: Injunctions**

2 (a) Any court having jurisdiction of a civil action arising under this
3 title may, subject to the provisions of section 1498 of title 28, grant
4 temporary and final injunctions on such terms as it may deem reason-
5 able to prevent or restrain infringement of a copyright.

6 (b) Any such injunction may be served anywhere in the United
7 States on the person enjoined; it shall be operative throughout the
8 United States and shall be enforceable, by proceedings in contempt or
9 otherwise, by any United States court having jurisdiction of that per-
10 son. The clerk of the court granting the injunction shall, when re-
11 quested by any other court in which enforcement of the injunction is
12 sought, transmit promptly to the other court a certified copy of all the
13 papers in the case on file in such clerk's office.

14 **§ 503. Remedies for infringement: Impounding and disposition of**
15 **infringing articles**

16 (a) At any time while an action under this title is pending, the court
17 may order the impounding, on such terms as it may deem reasonable,
18 of all copies or phonorecords claimed to have been made or used in
19 violation of the copyright owner's exclusive rights, and of all plates,
20 molds, matrices, masters, tapes, film negatives, or other articles by
21 means of which such copies or phonorecords may be reproduced.

22 (b) As part of a final judgment or decree, the court may order the
23 destruction or other reasonable disposition of all copies or phonorec-
24 ords found to have been made or used in violation of the copyright
25 owner's exclusive rights, and of all plates, molds, matrices, masters,
26 tapes, film negatives, or other articles by means of which such copies or
27 phonorecords may be reproduced.

28 **§ 504. Remedies for infringement: Damages and profits**

29 (a) *IN GENERAL.*—Except as otherwise provided by this title, an
30 infringer of copyright is liable for either—

31 (1) the copyright owner's actual damages and any additional
32 profits of the infringer, as provided by subsection (b); or

33 (2) statutory damages, as provided by subsection (c).

34 (b) *ACTUAL DAMAGES AND PROFITS.*—The copyright owner is en-
35 titled to recover the actual damages suffered by him or her as a result of
36 the infringement, and any profits of the infringer that are attributable
37 to the infringement and are not taken into account in computing the
38 actual damages. In establishing the infringer's profits, the copyright
39 owner is required to present proof only of the infringer's gross revenue,

1 *and the infringer is required to prove his or her deductible expenses and*
 2 *the elements of profit attributable to factors other than the copyrighted*
 3 *work.*

4 (c) *STATUTORY DAMAGES.—*

5 (1) *Except as provided by clause (2) of this subsection, the copy-*
 6 *right owner may elect, at any time before final judgment is rendered,*
 7 *to recover, instead of actual damages and profits, an award of statutory*
 8 *damages for all infringements involved in the action, with respect to*
 9 *any one work, for which any one infringer is liable individually, or*
 10 *for which any two or more infringers are liable jointly and severally,*
 11 *in a sum of not less than \$250 or more than \$10,000 as the court con-*
 12 *siders just. For the purposes of this subsection, all the parts of a*
 13 *compilation or derivative work constitute one work.*

14 (2) *In a case where the copyright owner sustains the burden of*
 15 *proving, and the court finds, that infringement was committed will-*
 16 *fully, the court in its discretion may increase the award of statutory*
 17 *damages to a sum of not more than \$50,000. In a case where the*
 18 *infringer sustains the burden of proving, and the court finds, that*
 19 *such infringer was not aware and had no reason to believe that his or*
 20 *her acts constituted an infringement of copyright, the court in its*
 21 *discretion may reduce the award of statutory damages to a sum of*
 22 *not less than \$100. The court shall remit statutory damages in any*
 23 *case where an infringer believed and had reasonable grounds for*
 24 *believing that his or her use of the copyrighted work was a fair use*
 25 *under section 107, if the infringer was: (i) an employee or agent of*
 26 *a nonprofit educational institution, library, or archives acting within*
 27 *the scope of his or her employment who, or such institution, library,*
 28 *or archives itself, which infringed by reproducing the work in copies*
 29 *or phonorecords; or (ii) a public broadcasting entity which or a*
 30 *person who, as a regular part of the nonprofit activities of a public*
 31 *broadcasting entity (as defined in subsection (g) of section 118) in-*
 32 *fringed by performing a published nondramatic literary work or by*
 33 *reproducing a transmission program embodying a performance of*
 34 *such a work.*

35 **§ 505. Remedies for infringement: Costs and attorney's fees**

36 *In any civil action under this title, the court in its discretion may*
 37 *allow the recovery of full costs by or against any party other than*
 38 *the United States or an officer thereof. Except as otherwise provided*
 39 *by this title, the court may also award a reasonable attorney's fee*
 40 *to the prevailing party as part of the costs.*

1 **§ 506. Criminal offenses**

2 (a) *CRIMINAL INFRINGEMENT.*—Any person who infringes a copy-
3 right willfully and for purposes of commercial advantage or private
4 financial gain shall be fined not more than \$10,000 or imprisoned for
5 not more than one year, or both; Provided, however, That any person
6 who infringes willfully and for purposes of commercial advantage
7 or private financial gain the copyright in a sound recording afforded
8 by subsection (1), (2), or (3) of section 106 or the copyright in a
9 motion picture afforded by subsections (1), (3), or (4) of section
10 106 shall be fined not more than \$25,000 or imprisoned for not more
11 than one year, or both, for the first such offense and shall be fined
12 not more than \$50,000 or imprisoned for not more than two years, or
13 both, for any subsequent offense.

14 (b) *SEIZURE, FORFEITURE, AND DESTRUCTION.*—All copies or phono-
15 records manufactured, reproduced, distributed, sold, or otherwise used,
16 intended for use, or possessed with intent to use in violation of sub-
17 section (a), and all plates, molds, matrices, masters, tapes, film nega-
18 tives, or other articles by means of which such copies or phonorecords
19 may be reproduced, shall be seized and forfeited to the United States.
20 When any person is convicted of any violation of subsection (a), the
21 court in its judgment of conviction may, in addition to the penalty
22 therein prescribed, order either the destruction or other disposition of
23 all infringing copies or phonorecords and all plates, molds, matrices,
24 masters, tapes, film negatives, or other articles by means of which such
25 copies or phonorecords may be reproduced. The applicable procedures
26 relating to (1) the seizure, summary and judicial forfeiture and con-
27 demnation of vessels, vehicles, merchandise, and baggage for violations
28 of the customs laws contained in title 19, (2) the disposition of such
29 vessels, vehicles, merchandise, and baggage or the proceeds from the
30 sale thereof, (3) the remission or mitigation of such forfeiture, (4)
31 the compromise of claims, and (5) the award of compensation to in-
32 formers in respect of such forfeitures, shall apply to seizures and for-
33 feitures incurred, or alleged to have been incurred, under the provi-
34 sions of this section, insofar as applicable and not inconsistent with
35 the provisions of this section; except that such duties as are imposed
36 upon any officer or employee of the Treasury Department or any other
37 person with respect to the seizure and forfeiture of vessels, vehicles,
38 merchandise, and baggage under the provisions of the customs laws
39 contained in title 19 shall be performed with respect to seizure and

1 forfeiture of all articles described in subsection (a) by such officers,
2 agents, or other persons as may be authorized or designated for that
3 purpose by the Attorney General.

4 (c) **FRAUDULENT COPYRIGHT NOTICE.**—Any person who, with fraud-
5 ulent intent, places on any article a notice of copyright or words of
6 the same purport that such person knows to be false, or who, with
7 fraudulent intent, publicly distributes or imports for public distribu-
8 tion any article bearing such notice or words that such person knows
9 to be false, shall be fined not more than \$2,500.

10 (d) **FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.**—Any person who,
11 with fraudulent intent, removes or alters any notice of copyright ap-
12 pearing on a copy of a copyrighted work shall be fined not more than
13 \$2,500.

14 (e) **FALSE REPRESENTATION.**—Any person who knowingly makes a
15 false representation of a material fact in the application for copyright
16 registration provided for by section 409, or in any written statement
17 filed in connection with the application, shall be fined not more than
18 \$2,500.

19 **§ 507. Limitations on actions**

20 (a) **CRIMINAL PROCEEDINGS.**—No criminal proceeding shall be main-
21 tained under the provisions of this title unless it is commenced within
22 three years after the cause of action arose.

23 (b) **CIVIL ACTIONS.**—No civil action shall be maintained under the
24 provisions of this title unless it is commenced within three years after
25 the claim accrued.

26 **§ 508. Notification of filing and determination of actions**

27 (a) Within one month after the filing of any action under this title,
28 the clerks of the courts of the United States shall send written notifica-
29 tion to the Register of Copyrights setting forth, as far as is shown by
30 the papers filed in the court, the names and addresses of the parties and
31 the title, author, and registration number of each work involved in
32 the action. If any other copyrighted work is later included in the ac-
33 tion by amendment, answer, or other pleading, the clerk shall also
34 send a notification concerning it to the Register within one month after
35 the pleading is filed.

36 (b) Within one month after any final order or judgment is issued
37 in the case, the clerk of the court shall notify the Register of it, send-
38 ing with the notification a copy of the order or judgment together
39 with the written opinion, if any, of the court.

40 (c) Upon receiving the notifications specified in this section, the

1 Register shall make them a part of the public records of the Copyright
2 Office.

3 **§ 509. Remedies for alteration of programing by cable systems**

4 (a) In any action filed pursuant to section 111(c) (3), the following
5 remedies shall be available:

6 (1) Where an action is brought by a party identified in sub-
7 section (b) or (c) of section 501, the remedies provided by sections
8 502 through 505, and the remedy provided by subsection (b) of
9 this section; and

10 (2) Where an action is brought by a party identified in sub-
11 section (d) of section 501, the remedies provided by sections 502
12 and 505, together with any actual damages suffered by such party
13 as a result of the infringement, and the remedy provided by sub-
14 section (b) of this section.

15 (b) In any action filed pursuant to section 111(c) (3), the court may
16 decree that, for a period not to exceed thirty days, the cable system shall
17 be deprived of the benefit of a compulsory license for one or more dis-
18 tant signals carried by such cable system.

19 **Chapter 6.—MANUFACTURING REQUIREMENT AND**
20 **IMPORTATION**

Sec.

601. Manufacture, importation, and public distribution of certain copies.

602. Infringing importation of copies or phonorecords.

603. Importation prohibitions: Enforcement and disposition of excluded articles.

21 **§ 601. Manufacture, importation, and public distribution of certain**
22 **copies**

23 (a) Prior to January 1, 1981, and except as provided by subsection
24 (b), the importation into or public distribution in the United States of
25 copies of a work consisting preponderantly of nondramatic literary
26 material that is in the English language and is protected under this
27 title is prohibited unless the portions consisting of such material have
28 been manufactured in the United States or Canada.

29 (b) The provisions of subsection (a) do not apply—

30 (1) where, on the date when importation is sought or public
31 distribution in the United States is made, the author of any sub-
32 stantial part of such material is neither a national nor a domicili-
33 ary of the United States or, if such author is a national of the
34 United States, he or she has been domiciled outside the United
35 States for a continuous period of at least one year immediately
36 preceding that date; in the case of a work made for hire, the
37 exemption provided by this clause does not apply unless a sub-

1 *stantial part of the work was prepared for an employer or other*
 2 *person who is not a national or domiciliary of the United States*
 3 *or a domestic corporation or enterprise;*

4 (2) *where the United States Customs Service is presented with*
 5 *an import statement issued under the seal of the Copyright*
 6 *Office, in which case a total of no more than two thousand copies*
 7 *of any one such work shall be allowed entry; the import statement*
 8 *shall be issued upon request to the copyright owner or to a person*
 9 *designated by such owner at the time of registration for the work*
 10 *under section 408 or at any time thereafter;*

11 (3) *where importation is sought under the authority or for the*
 12 *use, other than in schools, of the Government of the United States*
 13 *or of any State or political subdivision of a State;*

14 (4) *where importation, for use and not for sale, is sought:*

15 (A) *by any person with respect to no more than one copy*
 16 *of any work at any one time;*

17 (B) *by any person arriving from outside the United States,*
 18 *with respect to copies forming part of such person's personal*
 19 *baggage; or*

20 (C) *by an organization operated for scholarly, educational,*
 21 *or religious purposes and not for private gain, with respect*
 22 *to copies intended to form a part of its library;*

23 (5) *where the copies are reproduced in raised characters for*
 24 *the use of the blind; or*

25 (6) *where, in addition to copies imported under clauses (3)*
 26 *and (4) of this subsection, no more than two thousand copies of*
 27 *any one such work, which have not been manufactured in the*
 28 *United States or Canada, are publicly distributed in the United*
 29 *States; or*

30 (7) *where, on the date when importation is sought or public*
 31 *distribution in the United States is made—*

32 (A) *the author of any substantial part of such material*
 33 *is an individual and receives compensation for the transfer*
 34 *or license of the right to distribute the work in the United*
 35 *States; and*

36 (B) *the first publication of the work has previously taken*
 37 *place outside the United States under a transfer or license*
 38 *granted by such author to a transferee or licensee who was*
 39 *not a national or domiciliary of the United States or a*
 40 *domestic corporation or enterprise; and*

1 (C) there has been no publication of an authorized edition
2 of the work of which the copies were manufactured in the
3 United States; and

4 (D) the copies were reproduced under a transfer or license
5 granted by such author or by the transferee or licensee of the
6 right of first publication as mentioned in subclause (B), and
7 the transferee or the licensee of the right of reproduction was
8 not a national or domiciliary of the United States or a domes-
9 tic corporation or enterprise.

10 (c) The requirement of this section that copies be manufactured in
11 the United States or Canada is satisfied if—

12 (1) in the case where the copies are printed directly from type
13 that has been set, or directly from plates made from such type,
14 the setting of the type and the making of the plates have been
15 performed in the United States or Canada; or

16 (2) in the case where the making of plates by a lithographic or
17 photoengraving process is a final or intermediate step preceding
18 the printing of the copies, the making of the plates has been per-
19 formed in the United States or Canada; and

20 (3) in any case, the printing or other final process of producing
21 multiple copies and any binding of the copies have been performed
22 in the United States or Canada.

23 (d) Importation or public distribution of copies in violation of this
24 section does not invalidate protection for a work under this title. How-
25 ever, in any civil action or criminal proceeding for infringement of
26 the exclusive rights to reproduce and distribute copies of the work,
27 the infringer has a complete defense with respect to all of the non-
28 dramatic literary material comprised in the work and any other parts
29 of the work in which the exclusive rights to reproduce and distribute
30 copies are owned by the same person who owns such exclusive rights
31 in the nondramatic literary material, if the infringer proves—

32 (1) that copies of the work have been imported into or publicly
33 distributed in the United States in violation of this section by or
34 with the authority of the owner of such exclusive rights; and

35 (2) that the infringing copies were manufactured in the United
36 States or Canada in accordance with the provisions of subsection
37 (c); and

38 (3) that the infringement was commenced before the effective
39 date of registration for an authorized edition of the work, the

1 copies of which have been manufactured in the United States or
2 Canada in accordance with the provisions of subsection (c).

3 (c) In any action for infringement of the exclusive rights to repro-
4 duce and distribute copies of a work containing material required by
5 this section to be manufactured in the United States or Canada, the
6 copyright owner shall set forth in the complaint the names of the per-
7 sons or organizations who performed the processes specified by subsec-
8 tion (c) with respect to that material, and the places where those proc-
9 esses were performed.

10 **§ 602. Infringing importation of copies or phonorecords**

11 (a) Importation into the United States, without the authority of
12 the owner of copyright under this title, of copies or phonorecords of
13 a work that have been acquired outside the United States is an infringe-
14 ment of the exclusive right to distribute copies or phonorecords under
15 section 106, actionable under section 501. This subsection does not
16 apply to—

17 (1) importation of copies or phonorecords under the authority
18 or for the use of the Government of the United States or of any
19 State or political subdivision of a State, but not including copies
20 or phonorecords for use in schools, or copies of any audiovisual
21 work imported for purposes other than archival use;

22 (2) importation, for the private use of the importer and not for
23 distribution, by any person with respect to no more than one copy
24 or phonorecord of any one work at any one time, or by any person
25 arriving from outside the United States with respect to copies or
26 phonorecords forming part of such person's personal baggage; or

27 (3) importation by or for an organization operated for
28 scholarly, educational, or religious purposes and not for private
29 gain, with respect to no more than one copy of an audiovisual
30 work solely for its archival purposes, and no more than five copies
31 or phonorecords of any other work for its library lending or
32 archival purposes, unless the importation of such copies or phono-
33 records is part of an activity consisting of systematic reproduc-
34 tion or distribution, engaged in by such organization in violation
35 of the provisions of section 108(g) (2).

36 (b) In a case where the making of the copies or phonorecords would
37 have constituted an infringement of copyright if this title had been
38 applicable, their importation is prohibited. In a case where the copies
39 or phonorecords were lawfully made, the United States Customs Serv-

ice has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602—

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that the person seeking exclusion furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which such person claims an interest is valid and that the importation would violate the prohibition in section 602; the person seeking exclusion may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of law.

Chapter 7.—COPYRIGHT OFFICE

Sec.

701. The Copyright Office: General responsibilities and organization.

702. Copyright Office regulations.

703. Effective date of actions in Copyright Office.

704. Retention and disposition of articles deposited in Copyright Office.

705. Copyright Office records: Preparation, maintenance, public inspection, and searching.

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707. Copyright Office forms and publications.

708. Copyright Office fees.

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710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

1 **§ 701. The Copyright Office: General responsibilities and organi-**
 2 **zation**

3 (a) *All administrative functions and duties under this title, except*
 4 *as otherwise specified, are the responsibility of the Register of Copy-*
 5 *rights as director of the Copyright Office of the Library of Congress.*
 6 *The Register of Copyrights, together with the subordinate officers*
 7 *and employees of the Copyright Office, shall be appointed by the*
 8 *Librarian of Congress, and shall act under the Librarian's general*
 9 *direction and supervision.*

10 (b) *The Register of Copyrights shall adopt a seal to be used on*
 11 *and after January 1, 1978, to authenticate all certified documents*
 12 *issued by the Copyright Office.*

13 (c) *The Register of Copyrights shall make an annual report to the*
 14 *Librarian of Congress of the work and accomplishments of the Copy-*
 15 *right Office during the previous fiscal year. The annual report of the*
 16 *Register of Copyrights shall be published separately and as a part of*
 17 *the annual report of the Librarian of Congress.*

18 (d) *Except as provided by section 706(b) and the regulations*
 19 *issued thereunder, all actions taken by the Register of Copyrights*
 20 *under this title are subject to the provisions of the Administrative*
 21 *Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title*
 22 *5, United States Code, chapter 5, subchapter II and chapter 7).*

23 **§ 702. Copyright Office regulations**

24 *The Register of Copyrights is authorized to establish regulations*
 25 *not inconsistent with law for the administration of the functions and*
 26 *duties made the responsibility of the Register under this title. All*
 27 *regulations established by the Register under this title are subject to*
 28 *the approval of the Librarian of Congress.*

29 **§ 703. Effective date of actions in Copyright Office**

30 *In any case in which time limits are prescribed under this title for*
 31 *the performance of an action in the Copyright Office, and in which the*
 32 *last day of the prescribed period falls on a Saturday, Sunday, holi-*
 33 *day, or other nonbusiness day within the District of Columbia or the*
 34 *Federal Government, the action may be taken on the next succeeding*
 35 *business day, and is effective as of the date when the period expired.*

36 **§ 704. Retention and disposition of articles deposited in Copyright**
 37 **Office**

38 (a) *Upon their deposit in the Copyright Office under sections 407*
 39 *and 408, all copies, phonorecords, and identifying material, includ-*

1 ing those deposited in connection with claims that have been refused
2 registration, are the property of the United States Government.

3 (b) In the case of published works, all copies, phonorecords, and
4 identifying material deposited are available to the Library of Con-
5 gress for its collections, or for exchange or transfer to any other li-
6 brary. In the case of unpublished works, the Library is entitled, under
7 regulations that the Register of Copyrights shall prescribe, to select
8 any deposits for its collections or for transfer to the National Archives
9 of the United States or to a Federal records center, as defined in sec-
10 tion 2901 of title 44.

11 (c) The Register of Copyrights is authorized, for specific or gen-
12 eral categories of works, to make a facsimile reproduction of all or
13 any part of the material deposited under section 408, and to make such
14 reproduction a part of the Copyright Office records of the registration,
15 before transferring such material to the Library of Congress as pro-
16 vided by subsection (b), or before destroying or otherwise disposing
17 of such material as provided by subsection (d).

18 (d) Deposits not selected by the Library under subsection (b), or
19 identifying portions or reproductions of them, shall be retained under
20 the control of the Copyright Office, including retention in Govern-
21 ment storage facilities, for the longest period considered practicable
22 and desirable by the Register of Copyrights and the Librarian of Con-
23 gress. After that period it is within the joint discretion of the Register
24 and the Librarian to order their destruction or other disposition; but,
25 in the case of unpublished works, no deposit shall be knowingly and
26 intentionally destroyed or otherwise disposed of during its term of
27 copyright unless a facsimile reproduction of the entire deposit has
28 been made a part of the Copyright Office records as provided by
29 subsection (c).

30 (e) The depositor of copies, phonorecords, or identifying material
31 under section 408, or the copyright owner of record, may request re-
32 tention, under the control of the Copyright Office, of one or more of
33 such articles for the full term of copyright in the work. The Register
34 of Copyrights shall prescribe, by regulation, the conditions under
35 which such requests are to be made and granted, and shall fix the fee
36 to be charged under section 708(a)(11) if the request is granted.

37 **§ 705. Copyright Office records: Preparation, maintenance, public**
38 **inspection, and searching**

39 (a) The Register of Copyrights shall provide and keep in the Copy-
40 right Office records of all deposits, registrations, recordations, and

1 other actions taken under this title, and shall prepare indexes of all
2 such records.

3 (b) Such records and indexes, as well as the articles deposited in
4 connection with completed copyright registrations and retained under
5 the control of the Copyright Office, shall be open to public inspection.

6 (c) Upon request and payment of the fee specified by section 708,
7 the Copyright Office shall make a search of its public records, indexes,
8 and deposits, and shall furnish a report of the information they dis-
9 close with respect to any particular deposits, registrations, or recorded
10 documents.

11 **§ 706. Copies of Copyright Office records**

12 (a) Copies may be made of any public records or indexes of the
13 Copyright Office; additional certificates of copyright registration and
14 copies of any public records or indexes may be furnished upon request
15 and payment of the fees specified by section 708.

16 (b) Copies or reproductions of deposited articles retained under
17 the control of the Copyright Office shall be authorized or furnished
18 only under the conditions specified by the Copyright Office regula-
19 tions.

20 **§ 707. Copyright Office forms and publications**

21 (a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights
22 shall compile and publish at periodic intervals catalogs of all copy-
23 right registrations. These catalogs shall be divided into parts in ac-
24 cordance with the various classes of works, and the Register has
25 discretion to determine, on the basis of practicability and usefulness,
26 the form and frequency of publication of each particular part.

27 (b) OTHER PUBLICATIONS.—The Register shall furnish, free of charge
28 upon request, application forms for copyright registration and general
29 informational material in connection with the functions of the Copy-
30 right Office. The Register also has the authority to publish compila-
31 tions of information, bibliographies, and other material he or she
32 considers to be of value to the public.

33 (c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copy-
34 right Office shall be furnished to depository libraries as specified under
35 section 1905 of title 44, and, aside from those furnished free of charge,
36 shall be offered for sale to the public at prices based on the cost of
37 reproduction and distribution.

38 **§ 708. Copyright Office fees**

39 (a) The following fees shall be paid to the Register of Copyrights:
40 (1) for the registration of a copyright claim or a supplementary

1 registration under section 408, including the issuance of a certifi-
2 cate of registration, \$10;

3 (2) for the registration of a claim to renewal of a subsisting
4 copyright in its first term under section 304(a), including the
5 issuance of a certificate of registration, \$6;

6 (3) for the issuance of a receipt for a deposit under section
7 407, \$2;

8 (4) for the recordation, as provided by section 205, of a transfer
9 of copyright ownership or other document of six pages or less,
10 covering no more than one title, \$10; for each page over six and
11 each title over one, 50 cents additional;

12 (5) for the filing, under section 115(b), of a notice of intention
13 to make phonorecords, \$6;

14 (6) for the recordation, under section 302(c), of a statement
15 revealing the identity of an author of an anonymous or pseudony-
16 mous work, or for the recordation, under section 302(d), of a
17 statement relating to the death of an author, \$10 for a document
18 of six pages or less, covering no more than one title; for each
19 page over six and for each title over one, \$1 additional;

20 (7) for the issuance, under section 601, of an import statement,
21 \$3;

22 (8) for the issuance, under section 706, of an additional certifi-
23 cate of registration, \$4;

24 (9) for the issuance of any other certification, \$4; the Register
25 of Copyrights has discretion, on the basis of their cost, to fix
26 the fees for preparing copies of Copyright Office records, whether
27 they are to be certified or not;

28 (10) for the making and reporting of a search as provided by
29 section 705, and for any related services, \$10 for each hour or
30 fraction of an hour consumed;

31 (11) for any other special services requiring a substantial
32 amount of time or expense, such fees as the Register of Copy-
33 rights may fix on the basis of the cost of providing the service.

34 (b) The fees prescribed by or under this section are applicable
35 to the United States Government and any of its agencies, employees,
36 or officers, but the Register of Copyrights has discretion to waive
37 the requirements of this subsection in occasional or isolated cases
38 involving relatively small amounts.

39 (c) The Register of Copyrights shall deposit all fees in the
40 Treasury of the United States in such manner as the Secretary of the

1 *Treasury directs. The Register may, in accordance with regulations*
 2 *that he or she shall prescribe, refund any sum paid by mistake or in*
 3 *excess of the fee required by this section; however, before making*
 4 *a refund in any case involving a refusal to register a claim under*
 5 *section 410(b), the Register shall deduct all or any part of the pre-*
 6 *scribed registration fee to cover the reasonable administrative costs*
 7 *of processing the claim.*

8 **§ 709. Delay in delivery caused by disruption of postal or other**
 9 **services**

10 *In any case in which the Register of Copyrights determines, on the*
 11 *basis of such evidence as the Register may by regulation require, that*
 12 *a deposit, application, fee, or any other material to be delivered to the*
 13 *Copyright Office by a particular date, would have been received in the*
 14 *Copyright Office in due time except for a general disruption or sus-*
 15 *pension of postal or other transportation or communications services,*
 16 *the actual receipt of such material in the Copyright Office within one*
 17 *month after the date on which the Register determines that the dis-*
 18 *ruption or suspension of such services has terminated, shall be con-*
 19 *sidered timely.*

20 **§ 710. Reproductions for use of the blind and physically handi-**
 21 **capped: Voluntary licensing forms and procedures**

22 *The Register of Copyrights shall, after consultation with the Chief*
 23 *of the Division for the Blind and Physically Handicapped and other*
 24 *appropriate officials of the Library of Congress, establish by regula-*
 25 *tion standardized forms and procedures by which, at the time appli-*
 26 *cations covering certain specified categories of nondramatic literary*
 27 *works are submitted for registration under section 408 of this title, the*
 28 *copyright owner may voluntarily grant to the Library of Congress a*
 29 *license to reproduce the copyrighted work by means of Braille or simi-*
 30 *lar tactile symbols, or by fixation of a reading of the work in a phono-*
 31 *record, or both, and to distribute the resulting copies or phonorecords*
 32 *solely for the use of the blind and physically handicapped and under*
 33 *limited conditions to be specified in the standardized forms.*

34 **Chapter 8.—COPYRIGHT ROYALTY COMMISSION**

Sec.

801. Copyright Royalty Commission: Establishment and purpose.

802. Membership of the Commission.

803. Procedures of the Commission.

804. Institution and conclusion of proceedings.

805. Administrative support of the Commission.

806. Deduction of costs of proceedings.

807. Reports.

808. Effective date of final determinations.

809. Judicial review.

1 **§ 801. Copyright Royalty Commission: Establishment and purpose**

2 (a) *There is hereby created a Copyright Royalty Commission.*

3 (b) *Subject to the provisions of this chapter, the purposes of the*
4 *Commission shall be—*

5 (1) *to make determinations concerning the adjustment of rea-*
6 *sonable copyright royalty rates as provided in sections 115 and*
7 *116, and to make determinations as to reasonable terms and rules*
8 *of royalty payments as provided in section 118. Such determina-*
9 *tions shall be based upon relevant factors occurring subsequent*
10 *to the date of enactment of this Act;*

11 (2) *to make determinations concerning the adjustment of the*
12 *copyright royalty rates in section 111 solely in accordance with*
13 *the following provisions:*

14 (A) *The rates established by section 111(d)(2)(B) may*
15 *be adjusted to reflect (i) national monetary inflation or de-*
16 *flation or (ii) changes in the average rates charged cable sub-*
17 *scribers for the basic service of providing secondary trans-*
18 *missions to maintain the real constant dollar level of the*
19 *royalty fee per subscriber which existed as of the date of en-*
20 *actment of this Act: Provided, That if the average rates*
21 *charged cable system subscribers for the basic service of pro-*
22 *viding secondary transmissions are changed so that the aver-*
23 *age rates exceed national monetary inflation, no change in the*
24 *rates established by section 111(d)(2)(B) shall be per-*
25 *mitted: And provided further, That no increase in the royalty*
26 *fee shall be permitted based on any reduction in the average*
27 *number of distant signal equivalents per subscriber. The*
28 *Commission may consider all factors relating to the main-*
29 *tenance of such level of payments including, as an extenuat-*
30 *ing factor, whether the cable industry has been restrained by*
31 *subscriber rate regulating authorities from increasing the*
32 *rates for the basic service of providing secondary*
33 *transmissions.*

34 (B) *In the event that the rules and regulations of the Fed-*
35 *eral Communications Commission are amended at any time*
36 *after April 15, 1976, to permit the carriage by cable systems*
37 *of additional television broadcast signals beyond the local*
38 *service area of the primary transmitters of such signals, the*
39 *royalty rates established by section 111(d)(2)(B) may be*

adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Commission shall consider, among other factors, the economic impact on copyright owners and users: Provided, That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(d)(2)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

(3) to distribute royalty fees deposited with the Register of Copyrights under sections 111 and 116, and to determine, in cases where controversy exists, the distribution of such fees.

(c) As soon as possible after the date of enactment of this Act, and no later than six months following such date, the President shall publish a notice announcing the initial appointments provided in section 802.

§ 802. Membership of the Commission

(a) The Commission shall be composed of three members appointed by the President for a term of five years each; of the first three members appointed, two shall be designated to serve for five years from the date of the notice specified in section 801(c), and one shall be designated to serve for three years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(b) The President shall appoint a Chairman.

(c) Any vacancy in the Commission shall not affect its powers and shall be filled, for the unexpired term of the appointment, in the same manner as the original appointment was made.

§ 803. Procedures of the Commission

(a) The Commission shall adopt regulations, not inconsistent with law, governing its procedure and methods of operation. Except as otherwise provided in this chapter, the Commission shall be subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

(b) Every final determination of the Commission shall be published in the Federal Register. It shall state in detail the criteria that the Commission determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination.

§ 804. Institution and conclusion of proceedings

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2)(A) and (D)—

(1) on January 1, 1980, the Chairman of the Commission shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Commis-

1 *sion, may file a petition with the Commission declaring that the*
 2 *petitioner requests an adjustment of the rate. The Commission*
 3 *shall make a determination as to whether the applicant has a sig-*
 4 *nificant interest in the royalty rate in which an adjustment is re-*
 5 *quested. If the Commission determines that the petitioner has a*
 6 *significant interest, the Chairman shall cause notice of this de-*
 7 *termination, with the reasons therefor, to be published in the*
 8 *Federal Register, together with notice of commencement of pro-*
 9 *ceedings under this chapter.*

10 (A) *In proceedings under section 801(b)(2)(A) and (D),*
 11 *such petition may be filed during 1985 and in each subsequent*
 12 *fifth calendar year.*

13 (B) *In proceedings under section 801(b)(1) concerning*
 14 *the adjustment of royalty rates as provided in section 115,*
 15 *such petition may be filed in 1987 and in each subsequent*
 16 *tenth calendar year.*

17 (C) *In proceedings under section 801(b)(1) concerning*
 18 *the adjustment of royalty rates under section 116, such peti-*
 19 *tion may be filed in 1990 and in each subsequent tenth calendar*
 20 *year.*

21 (b) *With respect to proceedings under subclause (B) or (C) of*
 22 *section 801(b)(2), following an event described in either of those sub-*
 23 *sections, any owner or user of a copyrighted work whose royalty rates*
 24 *are specified by section 111, or by a rate established by the Commission,*
 25 *may, within twelve months, file a petition with the Commission de-*
 26 *claring that the petitioner requests an adjustment of the rate. In this*
 27 *event the Commission shall proceed as in subsection (a)(2), above.*
 28 *Any change in royalty rates made by the Commission pursuant to this*
 29 *subsection may be reconsidered in 1980, 1985, and each fifth calendar*
 30 *year thereafter, in accordance with the provisions in section 801(b)*
 31 *(2)(B) or (C), as the case may be.*

32 (c) *With respect to proceedings under section 801(b)(1), concern-*
 33 *ing the determination of reasonable terms and rates of royalty pay-*
 34 *ments as provided in section 118, the Commission shall proceed when*
 35 *and as provided by that section.*

36 (d) *With respect to proceedings under section 801(b)(3), concern-*
 37 *ing the distribution of royalty fees in certain circumstances under*
 38 *section 111 or 116, the Chairman of the Commission shall*
 39 *termination by the Commission that a controversy exists*

1 such distribution, cause to be published in the Federal Register notice
2 of commencement of proceedings under this chapter.

3 (c) All proceedings under this chapter shall be initiated without de-
4 lay following publication of the notice specified in this section, and
5 the Commission shall render its final decision in any such proceeding
6 within one year from the date of such publication.

7 **§ 805. Administrative support of the Commission**

8 (a) To assist in its work, the Commission may appoint a staff which
9 shall be an administrative part of the Library of Congress, but which
10 shall be responsible to the Commission for the administration of the
11 duties entrusted to the staff.

12 (b) The Commission may procure temporary and intermittent serv-
13 ices to the same extent as is authorized by section 3109 of title 5.

14 **§ 806. Deduction of costs of proceedings**

15 Before any funds are distributed pursuant to a final decision in a
16 proceeding involving distribution of royalty fees, the Commission
17 shall assess the reasonable costs of such proceeding.

18 **§ 807. Reports**

19 In addition to its publication of the reports of all final determina-
20 tions as provided in section 803(b), the Commission shall make an
21 annual report to the President and the Congress concerning the Com-
22 mission's work during the preceding fiscal year, including a detailed
23 fiscal statement of account.

24 **§ 808. Effective date of final determinations**

25 Any final determination by the Commission under this chapter shall
26 become effective thirty days following its publication in the Federal
27 Register as provided in section 803(b), unless prior to that time an
28 appeal has been filed pursuant to section 809, to vacate, modify, or
29 correct such determination, and notice of such appeal has been served
30 on all parties who appeared before the Commission in the proceeding
31 in question. Where the proceeding involves the distribution of royalty
32 fees under section 111 or 116, the Commission shall, upon the expira-
33 tion of such thirty-day period, distribute any royalty fees not subject
34 to an appeal filed pursuant to section 809.

35 **§ 809. Judicial review**

36 Any final decision of the Commission in a proceeding under section
37 801(b) may be appealed to the United States Court of Appeals, within
38 thirty days after its publication in the Federal Register, by an ag-
39 grieved party. The judicial review of the decision shall be had, in

1 accordance with chapter 7 of title 5, on the basis of the record before
2 the Commission. No court shall have jurisdiction to review a final
3 decision of the Commission except as provided in this section.

4 *TRANSITIONAL AND SUPPLEMENTARY PROVISIONS*

5 *Sec. 102. This Act becomes effective on January 1, 1978, except as*
6 *otherwise expressly provided by this Act, including provisions of the*
7 *first section of this Act. The provisions of sections 118, 304(b), and*
8 *chapter 8 of title 17, as amended by the first section of this Act, take*
9 *effect upon enactment of this Act.*

10 *Sec. 103. This Act does not provide copyright protection for any*
11 *work that goes into the public domain before January 1, 1978. The*
12 *exclusive rights, as provided by section 106 of title 17 as amended by*
13 *the first section of this Act, to reproduce a work in phonorecords and*
14 *to distribute phonorecords of the work, do not extend to any non-*
15 *dramatic musical work copyrighted before July 1.*

16 *Sec. 104. All proclamations issued by the President under section*
17 *1(c) or 9(b) of title 17 as it existed on December 31, 1977, or under*
18 *previous copyright statutes of the United States, shall continue in*
19 *force until terminated, suspended, or revised by the President.*

20 *Sec. 105. (a) (1) Section 505 of title 44 is amended to read as follows:*

21 **"§ 505. Sale of duplicate plates**

22 *"The Public Printer shall sell, under regulations of the Joint Com-*
23 *mittee on Printing to persons who may apply, additional or duplicate*
24 *stereotype or electrotpe plates from which a Government publica-*
25 *tion is printed, at a price not to exceed the cost of composition, the*
26 *metal, and making to the Government, plus 10 per centum, and the*
27 *full amount of the price shall be paid when the order is filed."*

28 *(2) The item relating to section 505 in the sectional analysis at*
29 *the beginning of chapter 5 of title 44 is amended to read as follows:*

"505. Sale of duplicate plates."

30 *(b) Section 2113 of title 44 is amended to read as follows:*

31 **"§ 2113. Limitation on liability**

32 *"When letters and other intellectual productions (exclusive of pat-*
33 *ented material, published works under copyright protection, and un-*
34 *published works for which copyright registration has been made)*
35 *come into the custody or possession of the Administrator of General*
36 *Services, the United States or its agents are not liable for infringement*
37 *of copyright or analogous rights arising out of use of the materials*
38 *for display, inspection, research, reproduction, or other purposes."*

1 (c) In section 1498(b) of title 28, the phrase "section 101(b) of
2 title 17" is amended to read "section 504(c) of title 17".

3 (d) Section 543(a)(4) of the Internal Revenue Code of 1954, as
4 amended, is amended by striking out "(other than by reason of section
5 2 or 6 thereof)".

6 (e) Section 3202(a) of title 39 is amended by striking out clause (5).
7 Section 3206 of title 39 is amended by deleting the words "subsections
8 (b) and (c)" and inserting "subsection (b)" in subsection (a), and
9 by deleting subsection (c). Section 3206(d) is renumbered (c).

10 (f) Subsection (a) of section 290(c) of title 15 is amended by delet-
11 ing the phrase "section 8" and inserting in lieu thereof the phrase "sec-
12 tion 105".

13 (g) Section 131 of title 2 is amended by deleting the phrase "deposit
14 to secure copyright," and inserting in lieu thereof the phrase "acqui-
15 sition of material under the copyright law,".

16 Sec. 106. In any case where, before January 1, 1978, a person has
17 lawfully made parts of instruments serving to reproduce mechanically
18 a copyrighted work under the compulsory license provisions of section
19 1(e) of title 17 as it existed on December 31, 1977, such person may con-
20 tinue to make and distribute such parts employing the same mechani-
21 cal reproduction without obtaining a new compulsory license under
22 the terms of section 115 of title 17 as amended by the first section of
23 this Act. However, such parts made on or after January 1, 1978, con-
24 stitute phonorecords and are otherwise subject to the provisions of
25 said section 115.

26 Sec. 107. In the case of any work in which an ad interim copyright
27 is subsisting or is capable of being secured on December 31, 1977, under
28 section 22 of title 17 as it existed on that date, copyright protection is
29 hereby extended to endure for the term or terms provided by section
30 304 of title 17 as amended by the first section of this Act.

31 Sec. 108. The notice provisions of sections 401 through 403 of title 17
32 as amended by the first section of this Act apply to all copies or phono-
33 records publicly distributed on or after January 1, 1978. However, in
34 the case of a work published before January 1, 1978, compliance with
35 the notice provisions of title 17 either as it existed on December 31,
36 1977, or as amended by the first section of this Act, is adequate with
37 respect to copies publicly distributed prior to December 31, 1977.

38 Sec. 109. The registration of claims to copyright for which the re-
39 quired deposit, application, and fee were received in the Copyright

1 Office before January 1, 1978, and the recordation of assignments of
 2 copyright or other instruments received in the Copyright Office before
 3 January 1, 1978, shall be made in accordance with title 17 as it existed
 4 on December 31, 1977.

5 *SEC. 110. The demand and penalty provisions of section 14 of title 17*
 6 *as it existed on December 31, 1977, apply to any work in which copy-*
 7 *right has been secured by publication with notice of copyright on or*
 8 *before that date, but any deposit and registration made after that*
 9 *date in response to a demand under that section shall be made in*
 10 *accordance with the provisions of title 17 as amended by the first sec-*
 11 *tion of this Act.*

12 *SEC. 111. Section 2318 of title 18 of the United States Code is*
 13 *amended to read as follows:*

14 **"§ 2318. Transportation, sale or receipt of phonograph records**
 15 **bearing forged or counterfeit labels"**

16 "(a) Whoever knowingly and with fraudulent intent transports,
 17 causes to be transported, receives, sells, or offers for sale in interstate
 18 or foreign commerce any phonograph record, disk, wire, tape, film,
 19 or other article on which sounds are recorded, to which or upon which
 20 is stamped, pasted, or affixed any forged or counterfeited label, know-
 21 ing the label to have been falsely made, forged, or counterfeited shall
 22 be fined not more than \$10,000 or imprisoned for not more than one
 23 year, or both, for the first such offense and shall be fined not more than
 24 \$25,000 or imprisoned for not more than two years, or both, for any
 25 subsequent offense.

26 "(b) When any person is convicted of any violation of subsection
 27 (a), the court in its judgment of conviction shall, in addition to the
 28 penalty therein prescribed, order the forfeiture and destruction or
 29 other disposition of all counterfeit labels and all articles to which
 30 counterfeit labels have been affixed or which were intended to have
 31 had such labels affixed."

32 *SEC. 112. All causes of action that arose under title 17 before Janu-*
 33 *ary 1, 1978, shall be governed by title 17 as it existed when the cause of*
 34 *action arose.*

35 *SEC. 113. (a) The Librarian of Congress (hereinafter referred to as*
 36 *the "Librarian") shall establish and maintain in the Library of Con-*
 37 *gress a library to be known as the American Television and Radio*
 38 *Archives (hereinafter referred to as the "Archives"). The purpose of*
 39 *the Archives shall be to preserve a permanent record of the television*

1 and radio programs which are the heritage of the people of the United
2 States and to provide access to such programs to historians and
3 scholars without encouraging or causing copyright infringement.

4 (1) The Librarian, after consultation with interested organizations
5 and individuals, shall determine and place in the Archives such copies
6 and phonorecords of television and radio programs transmitted to the
7 public in the United States and in other countries which are of present
8 or potential public or cultural interest, historical significance, cognitive
9 value, or otherwise worthy of preservation, including copies and
10 phonorecords of published and unpublished transmission programs—

11 (A) acquired in accordance with sections 407 and 408 of title
12 17 as amended by the first section of this Act; and

13 (B) transferred from the existing collections of the Library of
14 Congress; and

15 (C) given to or exchanged with the Archives by other libraries,
16 archives, organizations, and individuals; and

17 (D) purchased from the owner thereof.

18 (2) The Librarian shall maintain and publish appropriate catalogs
19 and indexes of the collections of the Archives, and shall make such
20 collections available for study and research under the conditions pre-
21 scribed under this section.

22 (b) Notwithstanding the provisions of section 106 of title 17 as
23 amended by the first section of this Act, the Librarian is authorized
24 with respect to a transmission program which consists of a regularly
25 scheduled newscast or on-the-spot coverage of news events and, under
26 standards and conditions that the Librarian shall prescribe by regu-
27 lation—

28 (1) to reproduce a fixation of such a program, in the same or
29 another tangible form, for the purposes of preservation or security
30 or for distribution under the conditions of clause (3) of this sub-
31 section; and

32 (2) to compile, without abridgement or any other editing, por-
33 tions of such fixations according to subject matter, and to repro-
34 duce such compilations for the purpose of clause (1) of this
35 subsection; and

36 (3) to distribute a reproduction made under clause (1) or (2)
37 of this subsection—

38 (A) by loan to a person engaged in research; and

39 (B) for deposit in a library or archives which meets the

1 requirements of section 108(a) of title 17 as amended by the
2 first section of this Act,

3 in either case for use only in research and not for further repro-
4 duction or performance.

5 (c) The Librarian or any employee of the Library who is acting
6 under the authority of this section shall not be liable in any action for
7 copyright infringement committed by any other person unless the
8 Librarian or such employee knowingly participated in the act of in-
9 fringement committed by such person. Nothing in this section shall be
10 construed to excuse or limit liability under title 17 as amended by the
11 first section of this Act for any act not authorized by that title or this
12 section, or for any act performed by a person not authorized to act
13 under that title or this section.

14 (d) This section may be cited as the "American Television and
15 Radio Archives Act".

16 Sec. 114. There are hereby authorized to be appropriated such funds
17 as may be necessary to carry out the purposes of this Act, except that
18 no more than \$500,000 shall be appropriated annually for the opera-
19 tions of the Copyright Royalty Commission.

20 Sec. 115. If any provision of title 17, as amended by the first section
21 of this Act, is declared unconstitutional, the validity of the remainder
22 of the title is not affected.

Passed the Senate February 19, 1976.

Attest:

FRANCIS R. VALEO.

Secretary.